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Ontario Legislative Assembly, Select Committee
on the New Ontario Hydro Building

Hearings

(39)

Vol. 10 . Aug 27 - Aug. 29, 1973

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Monday, August 27, 1973

Afternoon session

1800-1844



1800-1844

APPEARANCES

Committee members:

J.N. Allan

J.E. Bullbrook

I. Deans

M. Gaunt

L.C. Henderson

R.G. Hodgson

W. Hodgson

J.P. MacBeth (Chairman)

W. Newman

J.A. Renwick

G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC

James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC


Gregory Rice

G.D. Finlayson, QC

President, Canada Square Corp. Ltd.:

Gerhard W. Moog

List of exhibits introduced during this sitting appears on the next page.



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The committee resumed at 2.10 o'clock p.m. in the members' board room.

Mr. Chairman: Ladies and gentlemen, we have a quorum so I would call the meeting to order. *M*Mr. Shibley?

Mr. Shibley: Mr. Moog, just before we go on this afternoon, I want to show you, but if you have not seen this ~~document~~ before, as I expect, it is a Hydro document, a document dated December 6th, 1972, referencing an estimate of interim financing costs of \$4,000,000. Now if you haven't seen the document we will leave it and ~~-----~~

Mr. Finlayson: Could I see ~~it~~?

Mr. Genest: Could I see it too?

Mr. Shibley: Yes, give it to Mr. Genest.

Have you ever seen this document?

Mr. Moog: I can't say I have.

Mr. Shibley: All right. I am of the belief at the moment that it came from the Hydro documents so I won't examine you further on it.

I want to return with the committee and I ask the committee now to place before yourselves - and would you also, Mr. Moog, put before you ~~version 1 and version 3~~ of the Hanscomb Roy report, ignoring the second edition, and if we start with what amounts to sheet number - what I would like everyone to do is to start with the sheet showing element one through to seven, those sort of recap pages.

It will be sheet number - the sheet numbers are up at the right hand - it is sheet number one on exhibit 202, and it is sheet number two on exhibit number 204; but they contain the same breakouts.

Now, Mr. Moog, just so that the committee can understand how the increase came about from \$33 million to \$37.5 between these two documents, I am going to in a cursory way take you through them.

(Mr. Shib ley)

Item 1, substructure, there is an increase from \$968,000 to \$1,276,000 or \$298,000. If the members of the committee then will take version 3 and move to a point where you find sheet 1(c) - it is about four pages along - the designation is in the upper right hand corner, and you will see water storage tank on that sheet, and as I understand it, the increase of \$290,000 relates in largest measure to the water storage tank that is referenced on that page. Is that correct?

Mr. Moog: I would believe ~~that~~ that is so.

Mr. Shibley: And the reason is that there is a difficulty factor which multiplies the cost by two ^{is that} because the crane is located on the site of the tank it is going to have to be installed after the building is closed in.

Mr. Moog: Yes.

~~Mr. Shibley: Go then up double the cost of the~~

Tape H - 1800 follows

~~(in Shibley)~~

~~located on the side of the tank it's going to be~~

~~installed from the building is placed in?~~

Mr. Shibley: So that may double the cost. So the water storage tank that you have been talking about is this item, is that correct?

Mr. Moog: Yes.

Mr. Shibley: And can we take it that it's being included ~~it~~ as an item which is not an extra but rather is to form part of the basic cost of this structure?

Mr. Moog: That's correct.

Mr. Shibley: There will be no extra charge to Hydro on that account?

Mr. Moog: There will not be.

Mr. Shibley: Fine. Then the next - just keeping your finger there and coming back to the version three - Item 2, Structure, there is no change whatsoever. Item three, exterior cladding, and you will notice that there is an increase of \$389,000 between the two versions and this has to do, I understand, with - well, we should turn to item three, if you turn to sheet three ...

Mr. Genest: In which report?

Mr. Shibley: In the third version of the report; you'll skip quite a few pages before you reach it - 3(a) - find the upper right hand portion, 3(a) - do you see where it says "Skylights"? It's concourse Area, Skylights, unit rate is \$20,000 - \$360,000. Are you still with me, Mr. Moog?

Mr. Moog: Yes.

Mr. Shibley: Are the members still with me? As I understand that increase in item 3 has to do with the "Skylights" for which they had made a very low allowance and on the basis of a letter which you produced from Pilkington indicating the unit rate to be \$20,000 created the increase of \$360,000 indicated. Is that right?

2.15 - 2.20 p.m.
M.R.

Mr. Shibley: At the moment, my only concern, Mr. Mosg, is this: That if this \$120,000 is an expenditure for escalators to the TTC, that the TTC will not incur, I understand that Canada Square is to incur it without extra charge to Hydro?

Mr. Mosg: I want to be very careful on this, Mr. Shibley; we had an arrangement with the TTC whereby they were installing a portion of the escalators which we are helping them and we were installing a portion which we thought was of benefit to the Hydro building. That was our first proposal and I participated in a meeting with the TTC and at that time it looked as if that was what they were going to do.

(Mr. Moog)

~~_____~~
~~_____~~ to accept, but I believe through all the publicity and whatever else they afterwards tried to get us to pay for everything and we told them that we would not pay for everything. There has to be a limit and a rhyme and reason for everything so where we stand at the moment, I can't tell you. If there is any ~~_____~~ to go in which ~~_____~~ the Hydro building, which we think is a good thing to have, then the Hydro people will not be charged; that part is correct.

Mr. Shibley: That is all I am interested in.

Mr. Moog: That's right.

Mr. Shibley: Unless you can - I mean you may effect a saving by negotiating with the TTC.-----

Mr. Moog: Well, it works the other way round.

Mr. Shibley: All right, but if it goes in it is going in at that extra cost of \$1.20 without your claiming an extra against Hydro.

Mr. Moog: If it goes in, Hydro will not have to pay, ~~_____~~

Mr. Shibley: All right. ~~_____~~ then let's go back to the face page "interior finishes". Now this is a very large item of, if you notice originally Hanscomb Roy had allowed \$1.6 million, and in version 3, it is allowed at \$3.9 million for a difference of \$2,376,000, so we are now into one of the truly large items, and just if you wish to make notes, as I have, version 1 was \$1,609,000; version 2, which had the input from Mr. Candy, was as high as \$4,941,000, and this then came back down to \$3,985,000. So what is happening here, members of the committee, is that version 2 had included the carpeting and sprinkler system for some two million and that bumped it in the overall, item 6, to close to \$5,000,000.

Those items were deleted but were replaced with other

items which kept the figure up to \$3,985,000, and I would like now to turn to the specifications for item 6.

Mr. Moog: Yes.

Mr. Moog: Whatever goes in is at our cost.

6(a) inversion number one, because there is a substantial amount involved here. Six(b), I am sorry; 6(b) is ^{the sheets} on the two versions. You will notice that the allowance for the ceiling in the first version ~~was \$780,000~~ suspended 2' by 4' lay-in-tile was \$780,000, whereas in version 3, the latest version, it has got an allowance of \$2,575,000, the disparity being some \$1,800,000.

Mr. Moore: This sort of thing.

Mr. Meog: That is right.

Mr. Shibley: They weren't in ~~your~~ house?

Mr. Moog: 莫古先生 我們現在所談及之事項係指該項工程在圖上所標示之處
不論何時完工均須遷至新址又該項工程之進行亦須遵照此意 No, that is all we are
obliged to put into the building.

Mr. Shibley: That's right. Now then in fact what you are now planning to put into the building is an integrated acoustic ceiling of what I understand to be described as ~~the~~ a coffin-chamber type ceiling. Maybe that's - everybody has different terms but there is so much money in terms of the financial -----

~~Some of the things that are being done in the building.~~

~~Mr. Shibley: That's right.~~

Tape H - 1802 follows

Mr. Moog: It is a three-dimensional ceiling.

Mr. Shibley: All right. A three-dimensional ceiling.

And this is literally adding \$1,800,000 to the cost?

Mr. Moog: It adds very substantially, I don't know whether that is the correct figure, but it is a much more expensive ceiling.

Mr. Shibley: Yes. And it's outside the terms of your contract? *To include this.*

Mr. Moog: That's right.

Shibley:

Mr. Shibley: In fact, the contract only requires you to put in the suspended two by four laying tile?

Mr. Moog: Two by four ceiling of - well - a marginal type of finishing.

Mr. Shibley: I know it is a little more complicated than as I am putting it to you because - well, I will get into it in a moment - but just let me finish it very simply in this way, the million eight therefore that is additional cost for this type of ceiling is cost to be incurred by Canada Square, for the account of Canada Square, and included in the \$34 evaluation, is that correct?

Mr. Moog: Whatever the difference ^{and} the extra is for the three-dimensional ceiling is at our cost and is included in the \$34.

Mr. Shibley: You are not charging Hydro an extra for that?

Mr. Moog: We are not charging Hydro any extra capital expenditure.

Mr. Shibley: When was the decision made to put that kind of a ceiling in?

Mr. Moog: We have been working on that ceiling for quite some months. As a matter of fact, right in the ^{very} beginning when Mr. Candy and I discussed the interior of the building I showed him various ceiling tiles which we ^{were} ~~was~~ working with. We have a patent on a ceiling system ourselves which we at one time thought ~~we~~ of implementing, but we just didn't have enough time for that, ~~then~~ we had ~~developed~~ ~~several~~ panels, also ^a three-dimensional version which I showed Mr. Candy but he didn't like them that well. We have experimented with various things from the very first day on, on ceilings, because we wanted to get away from a standard ceiling.

Mr. Shibley: All right.

Mr. Moog: Every ^{we've built} ~~building~~ we usually have one or two very major items which are first in the industry, if you wish, and we think that ceilings in office buildings are due for a major overhaul and we ~~are~~ ^{were} working on getting a special system. We worked on this system for quite a long time and we believe that we now have found an answer and we are putting definitely a three-dimensional ^{ceiling} ~~system~~ in.

Mr. Shibley: Did your decision in that respect form part of your discussions with Hanscomb Roy on July 4 of this year?

Mr. Moog: I am sure that they were made aware of that we are not going ~~to~~ for a standard flat ceiling, that we would have something much more elaborate in mind.

Mr. Shibley: All right.

So that, as I say, on a completely voluntary basis, ^{ceiling} ~~and~~ and without extra cost to ~~the~~ ~~building~~, this new type ~~ceiling~~ is being

(Mr. Shibley)

put in at an extra cost to Canada Square of about a million eight?

Mr. Moog: All these items you have mentioned, Mr. Shibley, have been done completely voluntarily and as part of our understanding with Mr. Candy that we would completely satisfy Hydro.

Mr. Shibley: Now then; the reason I said it was a little more complicated than that - well, we will finish this sheet while we are at it - you got mall, corridors, lobbies, an allowance of \$200,000 in this sheet now. As I'm informed, as at July 4 you didn't know ^{what} ~~the~~ the finishes would be, but you have indicated you expect to employ finishes to a cost of that amount?

Mr. Moog: We indicated that I believe to Hanscomb Roy, that we would use high grade material such as quarry tile, etc. for longevity.

Mr. Shibley: All right.

Mr. Bullbrook: Could you help me, Mr. Shibley?

Mr. Shibley: Pardon?

Mr. Bullbrook: *He is not intended by Mr. Johnston -*
that he can't see it,
but we can hear you.

Mr. Shibley: You know, it is not intended as a phrase that is used in court when you are not properly dressed.

Mr. Bullbrook: Exhibit 206 that you referred us to, I hope I am not ruining your train of thought, but Mr. Johnston put the ceiling in at 650 at that time, \$6.50.

Moog.

Mr. Shibley: Is that the exhibit you have shown earlier to me, the handwritten one?

Mr. Bullbrook: Yes.

Mr. Moog: Well, as a matter of fact, Mr. Johnston

2.25-2.30 p.m.
E.M.

H-1803-4

(Mr. Moog)

has arrived since, because I didn't know what those figures meant and perhaps I can clear up that point. That doesn't even refer to this ~~new~~ building at all, that refers to the old building. So therefore those figures are not to be treated as a relation to the building we are building. Apparently ^{the} and correct me if I am wrong, Mr. Johnston - is a take-off on the old building, on the previous Hydro building, on the one designed by Gordon S. Adams.

(Tape 1804 follows)



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DT

(Mr. Moog)

~~several~~ several years prior to this one right here.

Mr. Shibley: But were you not intending -- I think it is important to clear this up then -- this was in your file and it was one of the early documents, I wasn't sure -- were you not intending the same mechanical installation?

Mr. Moog: Not at all. As a matter of fact that was one of our ~~big~~ big arguments that we didn't think that was a good enough system.

Mr. Shibley: I see. What bothers me is that the total is \$34.00.

Mr. Moog: I believe it was \$34.00 and I believe that we could give for \$34.00 a much better building and much more up dated. I think that was one of our points we made to Hydro.

Mr. Shibley: You will understand why I was of the view that this was your original *breakdown*.

Mr. Moog: I understand and I didn't know myself -- I was at a loss when you put -- in front of me this morning what this meant.

Mr. Chairman: Mr. Deans.

Mr. Deans: I just want to understand something. The "NIC" means "not in contract"?

Mr. Shibley: Where are you looking at?

Mr. Deans: I'm looking at "NIC" all through the thing -- you come across "NIC". Does that mean "not in contract"?

Mr. Shibley: I think that is correct.

Mr. Deans: Or "not included"? On all the sheets, the ones we are looking at. If you go down, you will find rentable areas in four ~~xxxx~~ lowest floors, "NIC", and back over -- and I want to just see what --

Mr. Shibley: I must say, Mr. Moog, the other thing about that exhibit that Mr. Bullbrook has mentioned is that it talks about a curtain wall at \$3.00, is --

Mr. Moog: I don't really know what these figures all mean. I didn't ~~look~~^{look} on the breakdown of those but they definitely reflect the previous Hydro building and that's construction costs without financing or anything else.

Mr. Shibley: No, but, help me if you would because I want to make sure Mr. Johnson isn't in there, because on page one it also talks about ^a curtain wall, glass and glazing, and the curtain wall was part of the new building, not of the old one.

Mr. Moog: I am sorry. Which document are you referring to?

Mr. Shibley: Exhibit 206 that you said was a take-off of the costing of the first building.

Mr. Moog: Yes.

Mr. Shibley: On the face page is ~~also~~^a curtain wall, \$3.00. There is no curtain wall on the originally planned building.

Mr. Finlayson: I understand there was.

Mr. Shibley: Oh, is there?

Mr. Moog: I think there is glazing which simulates a curtain walling section on the very front there.

Mr. Shibley: Oh, I see. All right. My image of what a curtain wall is was -- it must be ~~different~~ different than what you mean.

Mr. W. Hodgson: It will be better from now on, Dick.

Mr. Shibley: Pardon?

Mr. W. Hodgson: It will be better after this hearing.

Mr. Shibley: Yes, I am learning, all right. About a lot of things.

Mr. Chairman: On this one, Mr. Moog, whereabouts will the curtain wall be?

Mr. Moog: That's the front section, the continuous
~~section~~ *can* facing so to speak north east. *Just the face of the building*

Mr. Chairman: ~~Just the face of the building~~
I thought a curtain wall was vertical.

Mr. Moog: A curtain wall is all glass. That's
what it means.

Mr. Chairman: That is all it means?

Mr. Moog: That's all it means. Instead of a
masonry wall, you have got a frame into which glass is inserted,
it
which then makes a ~~basic~~ curtain wall.

Mr. Shibley: In any event, I would like to go
back to the comparison of the ~~two~~ two versions of the Hanscomb
Roy report. The next item of disparity is in item 7, fittings
and equipment, where there is a difference of \$175,000 and so
if we turn to ~~item~~ sheet number 1, 2 (b), again there is a
mail conveyor included in there which I understand is different
from what had been intended ~~for~~ dealing with the mail and I
want only to confirm again that this is not an extra but is
again to be included in the basic cost to Hydro.

Mr. Moog: I am not clear what the exact
situation on the mail conveyor is at this moment, Mr. Shibley.
I thought at one time Hydro tried to trade it off against
something else they wanted and ~~what~~ that was, I don't know
any more.

Mr. Shibley: Can you ask Mr. Johnson now
because --

Mr. Moog: I don't know whether it is in or out,
that's really what I am saying.

Mr. Shibley: Well, that's what concerns me.
You see the committee is taking these figures as --

Mr. Johnson: There has been no decision on
mail conveyor. There is a possibility it could be taken out.

Mr. Shibley: I see.

Mr. Johnson: Hydro haven't made up ~~their~~
their mind on it.

DT

Mr. Shibley: If it goes in, if it goes in,
is it to be included in the base price or is it to be an
extra?

(H-1805 to follow)

Mr. Moog: Well, at this moment, I would say it would be included unless we have already traded it off against something else, I'm not aware of.

Mr. Shibley: All right. You understand why I'm ...

Mr. Moog: I know what you are asking.

Mr. Shibley: ...why I'm going through this,

Mr. Moog: Yes.

Mr. Shibley: Mr. Moog, it may save a lot of

Mr. Shibley: All right.

Mr. Shibley: Then I want to turn over to the Item number 8 where again there is an increase in that amount of approximately half a million dollars; and if we turn to sheet number 8(a)- are you there?

Mr. Moog: Yes.

Mr. Shibley: As I understand it, skipping "Switchgear", the items ~~and~~ Distribution, Branch Wiring, Power Grid, Telephone Grid, Intercome Grid, all of which items total some \$2 million, this represents an increase of \$1.4 million. Is that right?

Mr. Moog: If that is what it adds up to, I suppose that's true.

Mr. Shibley: Yes. Now, just so as to make the picture clear, this new type ceiling you are putting in incorporates the lighting fixtures?

Mr. Moog: That's right.

Mr. Shibley: So that the whole of that million eight increase in respect of the ceiling is broken out in part for light fixtures and in part for the ceiling itself. Is that right?

Mr. Moog: That's right.

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Mr. Shibley: But because of the type of

ceiling you are putting in, although it makes a saving as to light fixtures, it increases the cost of the electrical service. Is that right?

Mr. Moog: I think that's true, yes.

Mr. Shibley: In the overall, just to over-simplify, the increase in cost for this ceiling, including the lighting, is close to \$2 million?

Mr. Moog: If that's the estimate here, I haven't really calculated that, but if that's what it says, that could be ...

Mr. Shibley: Well, that's my instruction, I might tell you, from Hanscomb ~~and~~ Roy, but it's a combination ...

Mr. Moog: Sounds quite reasonable, yes.

Mr. Shibley: ...of the fact that once you put that type of ceiling in it becomes very difficult to replace lighting and you have to do a very much different installation.

Mr. Moog: That's correct, yes.

Mr. Shibley: So although the ceiling itself does not cost an extra million eight because it's got the electrical fixtures in it, the electrical servicing under this item ...

Mr. Moog: Is much more expensive.

Mr. Shibley: Okay. So in the overall we take it that the new type ceiling adds approximately \$2 million to the cost of the building?

Mr. Moog: In that ~~range~~ range.

Mr. Shibley: Yes.

Mr. Henderson: Mr. Shibley, I don't pick these up out of the - are these figures that you are tossing in or ...

Mr. Shibley: No, they are here.

Mr. Henderson: They are here in the ...

Mr. Shibley: Well, they are collectively if you add up the items I gave you, Mr. Henderson, a \$785, \$460, \$390, \$325 and \$195 - they come to \$2 million. This represents a \$1.4 million increase over what had been the cost of electrical

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(Mr. Shibley)

installation and the reason for the increase is a different type ceiling.

Mr. Henderson: Well, when I'm looking at is overall cost of Item 8 - there is only a difference of some \$530,000 on the two sheets.

Mr. Allan: Only a difference of less than that.

Mr. Shibley: But you will notice the reason for that, if you look at version one, lighting one million eight twenty-two - do you see that? The lighting now is incorporated in this new ~~separate~~ ceiling system, so the million eight came out because the lighting is already part of the ceiling.

Mr. Henderson: Should that then be - should that be transferred to another column then, Mr. Shibley?

Mr. Shibley: That's why I say it's a little complicated. When Mr. Rasmussen gets in - what he is going to tell you is in effect this: They took and put in a new type ceiling or they are going to put in a new type ceiling. Instead of spending \$700,000, they are going to spend one million eight but the million eight actually is in part because the new ceiling incorporates the lighting fixtures as such, about a million of it, and only two hundred thousand represents difference in design. So that you might say well, then, you saved it on the lighting, you really didn't add to your cost, but it did add to the cost because when they went to - when they go to install this kind of a ceiling, the services for the ceiling are a million four higher than the services for a different type ceiling. Okay? And in the overall, the change of ceiling and lighting ~~they~~ tie together for an increase cost of some two million.

(Mr. Shibley)

H-1806-1

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~~and the other side of the building is the same~~
~~as the other side of the building is the same~~

Mr. Moog: I believe that is substantially so, I am not quite aware of the detailed figures but I do have ---

Mr. Shibley: Mr. Johnston, am I ~~now~~ on side yet in that respect? ~~and the other side of the building is the same~~ We can leave it, but ---

Mr. Finlayson: I think you had better leave it, I understand you are going to examine him anyhow, Mr. Johnston, isn't quite clear on that.

Mr. Shibley: Well, the important thing at the moment that I want to establish with you, Mr. Moog, because you have an authority with Canada Square that is second to none, and that is, that these changes in the installation of the ceiling and the electrical servicing that are referenced here on page 88 of the Hanscomb Roy version 3 report are changes that are being made at the cost of Canada Square and without extra charge to Hydro?

Mr. Moog: That is correct.

Mr. Shibley: And this notwithstanding that according to the specifications under the contract, you could have installed a ceiling at a cost of \$700-odd thousand and in the overall built a ~~at~~ building two million less?

Mr. Moog: That is quite right.

Mr. Shibley: All right.

Mr. Finlayson: I may say that ^{what} with Mr. Johnston's reservation about the actual figure, I think he agrees with the principle ~~of the actual figure~~ but these of course are not Mr. Johnston's figures that we are dealing with and you may want to ~~ask~~ question him on that aspect.

Mr. Shibley: That is helpful, Mr. Finlayson, I may

(Mr. Shibley)

be out --- I am prepared to be out 100 or 200 thousand without worrying about it.

Mr. Moog: No, that is the point, Mr. Shibley. ^{That} is why I did not want to agree with you on the specific figure, but on the ~~same~~ principle I ~~do~~ agree with you.

Mr. Shibley: Well, it is the principle that I am concerned about we are talking about a large sum of money here --- ^{Mr. Moog: That's right. I know that.} and if I say, tell you Hanescomb and Ray are concerned to know that that is your position.

Mr. Moog: That is our position.

Mr. ~~Sam~~ Shibley: All right. Then going to item 10 - I'm sorry - item 9 has an item "overhead and profit". Now, version No. 2 had blocked out "profit". I'm sorry ^{to} ~~we~~ have to have everybody open up version 2 but if you look at version 2 ^{you} see, they are using a standard form here, "item 9, overheads" and profit was blocked out. My instruction, Mr. Moog, is that this should have been blocked out again in ~~the~~ version No. 3 because ~~the~~ ^{the} understanding with Canada Square is that there is to be no builder's profit included in the computation of the \$44,400,000 cost of the building. Is that correct?

Mr. Moog: I ~~cannot~~ believe that these ~~reports~~ reports line out what the overhead items are, they ~~will~~ deal with them in detail and there is no profit in these reports.

Mr. Shibley: Yes, right.

Mr. Moog: Now, what an appraiser will do when the job is finished and whether there is any need to include a profit or not, I wouldn't be able to answer that question.

Mr. Shibley: I am going to discuss with you ~~the~~ as a separate topic perhaps, overhead and profit, but I want to know now ^{you} you are saying you are going to leave it ~~open~~ an open

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(Mr. Shibley)

question, but this is actually overhead ---

Mr. Moog: That is overhead in here, that is all this is.

Mr. Shibley: All right.

Mr. Moog: And that is all I have referred to in my opening statement too.

Mr. Shibley: Yes.

Mr. Deans: I'm sorry I don't have the breakdown sheet of element No.9 for the first Hanscomb Roy ---

Mr. Shibley: There was none.

Mr. Deans: Oh, there was none?

Mr. Shibley: As far as I ~~remember~~, that was the curious thing about it, I noticed that too. They just pegged a figure on a percentage basis for purposes of their first report, Mr. Deans. You are looking at these more carefully than I suspected you might.

Mr. Chairman: It goes right from (a) to (a). *from (a) to (a)*

Mr. Deans: ~~As far as I~~ *As far as I* sit here, I might as well *be looking at them.*

Mr. Shibley: Now, just on item No.8, we have already covered together, Mr. Moog, the fact that Hanscomb Roy's allowances for plumbing, heating and ventilation come to some ~~24~~ *\$6.50* per square foot as compared with the ~~for~~ *\$7.50* for which you are contending.

Mr. Moog: Right.

Mr. Shibley: And, of course, ~~depending~~ depending on the view that is ~~when we are talking a million~~

(Mr. Shibley)

~~Mr. Moog: That's one we will be contending,~~
taken, we are talking \$1,300,000.

Mr. Moog: That ~~is~~ one we will be contending,
Mr. Shibley. I don't think it makes any difference in the
end because I think we are much above our goal anyway and ~~above~~
above Hydro's goal but we believe our air conditioning system
is worth at least that much money.

Mr. Shibley: All right.

Mr. Bullbrook: Could you help me though? On
the item of overhead and profit so-called, there is an elevation
of \$700,000 between version 1 and ~~version~~ 3. That \$700,000
was referable to an ^{as} ~~an~~ assertion by Mr. Johnston that a ship
can't operate without a captain which I thought was rather
appropriate for Mr. Moog, but in any event, that doesn't show
that \$700,000 in the breakdown of -- on item 3 -- I am sorry,
on version 3. Are you following me, Mr. Shibley?

Mr. Shibley: I am not sure that I --

Mr. Bullbrook: There was no breakdown in version
number 1.

Mr. Shibley: That's right.

Mr. Bullbrook: Mr. Johnston in a letter that is
somewhere in this file, on page 2 of that letter and I can't
give you the exhibit number insists -- he ends up by insisting
that Hanscomb Roy do something. One of the things that he
insists they do is add in \$700,000, if I recall, because a
ship can't operate without a captain. Now, can you find the
document?

Mr. ~~Shibley~~ Shibley: Yes, I can in a minute.

Mr. Deans: Can I just say, we have been looking
at that, it seems, if I may, it seems as if the difference is
in insurance and permits where they have increased from
\$ 350 to 610 and added another item.

Mr. Bullbrook: The think that concerns me is
that there is a complete elev ation of \$700,00, right?
That does't show in your overhead breakdown on sheet 9 of version

(Mr. Bullbrook)

3.

Mr. Moog: I don't think ~~Hanscomb~~ Hanscomb Roy might have agreed on that one by the looks of it.

Mr. Bullbrook: It seems ^{passing} ~~reasonable~~ strange though that the elevation would be the exact amount \$700,000 that ~~that~~ Mr. Johnston said was an appropriate elevation.

Mr. ~~Shibley~~ Shibley: Well, Mr. Bullbrook, in fairness to the witness however, I think we are comparing ^{apples} ~~apples~~ and oranges because if you look at the breakdown on sheet number nine, you will see that they talk, in terms of overhead, about site protection, temporary services, insurance and permits ^{is} ~~is~~ a very large item. My instruction from Hanscomb Roy is that when they put in the ~~2,500,000~~ two and a half million in version one, they were just pegging it as a percentage factor whereas when they came down to version three, they were breaking it out in the way that's shown on sheet number nine and I have a hand written note of my discussion with them and they say the increase is a percentage reflection of the total cost of the ~~the~~ project in part. In other words, they are saying that because they were persuaded that the total cost was going to be higher, it would be expected that overhead would be similarly increased.

Deans: ~~Mr. Shibley~~ Well, how did they get the figure then? How did they get the figures that show in exhibit 2?

Mr. Shibley: You must remember ~~the cases~~ ^{these are} allowances, Mr. Deans. These are not precise figures.

Mr. Deans: Let me ask what their --

Mr. Shibley: Mr. Deans, they are only allowances.

Mr. Deans: They allowed in the first ^{May} ~~17th~~ 17th document \$350,000 for insurance and permits?

Mr. Shibley: Yes.

Mr. Deans: The second one, dated May 17, they allow \$610,000. Now, that's a substantial amount of change from 350 to 610. They have then added an item, something called off-site expenses.

Mr. Bullbrook: They forgot the sewer charge.

Hanscomb ~~the~~ ^{to} ~~say~~ neglected ~~us~~ put in the \$260,000 sewer charge.

Mr. Deans: Is that what it is?

Mr. Bullbrook: That's the exact figure.

Mr. Deans: That's what it is, eh? And the off-site expense of 375, is that for the captain?

Mr. Bullbrook: I take it.

Mr. Moog: I am not sure what that is but I am sure that either Mr. Johnston or --

Mr. Shibley: May I suggest that we can ~~leave~~ leave that to Mr. Rasmussen at the moment, I am really only interested ⁱⁿ dealing with this witness on a basis of -- certain of these increases concern me because we started with a 30 plus three million dollar building -- we are up to a 35 plus two million dollar building and the increases in version three are increases about which I am only anxious to establish that they are not to be at any extra charge to Hydro ~~and as a result of the increases in the cost of the building~~

(H-1808 to follow)

Mr. Moog: Right.

Mr. Shibley: And as long as we get that far with Mr. Moog we can leave to Hanscomb Roy to explain the rest.

Then, Mr. Moog, on Item 10, Site Development; there is an increase of \$855,000, you know a very substantial amount, and again I'd like to give you the opportunity to explain to the committee what it is that you explained to Hanscomb Roy that had them jump their original estimate for site development by the best part of a million dollars.

Mr. Moog: I again believe that Mr. Johnston or Mr. Rasmussen would be better qualified, but I'm not sure that the service tunnel leading to the other building was included in the first one, maybe it was, but that alone is an item of \$360,000. There is a connection to the TTC, I am just seeing here, of a quarter of a million dollars. These are all very substantial items and I'm not sure that those were included in the first version.

I have not seen that first version. I don't know their breakdown. But I do know that these are expenses we ~~would~~ will have to pay, out of our pocket.

Mr. Shibley: That's the point I want to get to.

Mr. Moog: Yes.

Mr. Shibley: I'll help you to this extent, Mr. Moog: The items starting "Connection to TTC" down - \$250,000; \$200,000, ~~\$150,000~~ ^{\$150,000} ~~\$200,000~~ - as I understand it from Hanscomb Roy these are only allowances that they have made. There is no backup data provided as yet, but on the basis of information provided by Canada Square to them, they have said fine, we will include in this estimate these allowances.

Mr. Moog: Yes.

Mr. Shibley: Now, if to the extent of these items therefore, can we take it that the items that are specified now

(Mr. Shibley)

are for the account of Canada Square and are not to be extras charged to Hydro?

Mr. Moog: There will be no extras to Hydro on those items.

Mr. Shibley: All right. And, for example, the soffit of the plaza \$150,000, this is a relatively recent vintage in the sense that the original plans given to Hanscomb Roy were very sketchy and now they are being given more precise information.

Mr. Moog: I even believe, Mr. Shibley, that - and I'm not sure on that Mr. Rasmussen can explain that - that I believe Hanscomb Roy in the beginning worked off the first set of drawings before Gordon S. Adamson redesigned the entire plaza. I think that's a distinct possibility and the new plaza, of course, is much more expensive.

Mr. Shibley: Yes. Well, as I say, at the moment I think what I am interested in and I think what they are interested in is that these items for which you have requested Hanscomb Roy ~~we~~ make allowances in their computation so as to give a better picture of ...

Mr. Moog: Right. They are going in at our expense.

Mr. Shibley: They are? Right, that's the point.

Mr. Moog: Right.

Mr. Shibley: And at the moment, Hanscomb Roy are estimating only or making an allowance only without really anything precise?

Mr. Moog: Well, that's the way we have to work. That' was part of our commitment when we started the job that we just had to get going in order to take advantage at least of some of the prices still available today and ...

Mr. Shibley: I realize that.

Mr. Moog: ...before ~~there~~ ^{were} any increases.

Mr. Shibley: I'm not being critical.

M.R.

Mr. Moog: No. No. This is how the job came about. That is why it has been very difficult for Hanscomb Roy and Hydro for that matter anybody, including this committee, to understand what we were trying to achieve.

Mr. Shibley: All right. Now, what - you see, you lead me into another question however and that is, that with that sort of atmosphere which was intended to prevail, namely one of - this was sort of a joint venture with Hydro ...

Mr. Moog: It was one of trust and faith, both ways.

Mr. Shibley: That's right. A partnership type of effort. Is that right?

Mr. Moog: Well, you can call it that, yes.

Mr. Shibley: Yes. Well, then, why is it that you are not prepared to provide to Hanscomb Roy ...

Mr. Moog: We are not going to open our books to anybody Mr. Shibley. We'd like to come out of this hearing with some of the trade secrets still in our possession.

Mr. Shibley: No, I'm not talking about trade secrets.

Mr. Moog: Well, ^{ever} when we make a contract. If we make a contract with Pilkington Glass, we'd like to keep that for ourselves. If we make a contract with somebody else, we'd like to keep that for ourselves. I don't think the competition or the public should know what we are paying. That is our business.

Mr. Shibley: I'm not asking you to tell the public. I'm only asking ...

Mr. Moog: ^(Well, who else am I talking) ~~when I am in this chair~~ That is my point.

~~(The Shibley)~~

~~222 was the I tell him going~~

Mr. Shibley: Mr. Moog, I am not going to ask you as a witness, I assure you, I am not going to ask you what your contract prices are with your subtrades, ^{What} ~~but~~ I am asking you now is whether or not you are going to give Hanscomb Roy, as the agent of Hydro, the kind of particulars that will enable them to come up with ^{an} ~~an~~ intelligent report to Hydro to have Hydro know whether it is in fact getting a \$34 building or not.

Mr. Moog: Mr. Shibley, the proof will be in the pudding, and it is quite easy once the building is up to give a very accurate estimate on that building and I think we ought to be left alone as a private industry to do our business the best way ^{we} ~~we~~ know how.

Mr. Shibley: Mr. Moog, I want to make it clear that what I am talking about is not publication to the world, but publication to Hydro's representatives to assist them - let's go back.

Mr. Finlayson: Mr. Chairman, with great respect the witness has made it abundantly clear, I think, that he does not propose to show these figures to Hydro. Now, I don't know why my friend pursues this because I thought from the very beginning he made it abundantly clear that ^{he means} ~~this~~ ^{if} being his business, he doesn't propose to show it to Hydro, so surely we have an answer on that subject.

Mr. Shibley: Well, may I put it in another context: You ~~did~~ ^{if} enter into a contract with Hydro whereby the building cost less than \$44,400,000 there was to be an abatement of rent?

Mr. Moog: If it evaluates below that figure, there

(Mr. Moog)

was to be an abatement of rent, that is correct.

Mr. Shibley: Yes. And part of what will go into the computation of that valuation is whatever cost of the various items we have been dealing with in these reports come to, is that not so?

Mr. Moog: That is the cost approach of the appraisal ^{of it} ~~approach~~.

Mr. Shibley: Yes, and therefore in respect of that contractual commitment that you made to Hydro to permit Hydro to share, by way of an abatement of rental, should the cost be less than \$34, do you not consider it part of your obligation, implicit if not express, to give Hydro the figures that went into the cost of the building?

Mr. Moog: No, Mr. Shibley, I don't.

Mr. Shibley: I see. And with respect ^{to} the specifications ~~and~~ and I want to be very explicit about this, because my instructions at the ~~present~~ moment are that even the specifications have not been provided to Hanscomb ~~and~~ Roy, and you were to check this over the luncheon recess. I want to know whether Canada Square is going to provide Hanscomb ~~and~~ Roy or any other agent appointed by Hydro, with the specifications laid down for any part of this structure?

Mr. Moog: I don't think there is any question about that. I think as the specifications get finished and as we buy our materials, Hydro will know anyway what is going in and we will certainly inform them. I don't think there has been any problem on that. I at least am not aware of that, Mr. Shibley, if there ^{was} ~~is~~ then I don't know.

Mr. Shibley: Well, I am only asking ~~the~~ question

(Mr. Shibley)

because I was instructed there was a problem and I am very relieved to hear you tell me that there is no problem.

Mr. Moog: Well, I haven't known about any. I don't know where that comes from.

Mr. Shibley: All right, but in any event whatever may have been the case to this date ---

Mr. Finlayson: Mr. Chairman, as I understand it, under the terms of any building ~~and~~ agreement, the plans and specifications belong to the owner.

Mr. Shibley: The owner of this building is Canada Square, leasing it back to Hydro.

Mr. Finlayson: Yes. *But I mean ---*

Mr. Moog: *anything to hide about what Hydro's getting*
I don't think we have ~~for~~ I think we can ask Mr. Candy, he is sitting right here.

Mr. Shibley: Mr. Moog, I just want your position, if you will commit now Canada Square to provide ~~the~~ Hanscomb Roy with the specifications as requested by them from time to time, ~~that~~ ~~and~~ you say you are willing to provide them?

Mr. Moog: Let me think about that. I don't see any reason at all why we shouldn't.

Mr. Genest: Mr. Chairman, Hydro certainly takes the position they are entitled to have the plans and specifications, that is how we read the contract. I think we are getting them currently.

Mr. Moog: Is there any problem with Hydro?

Mr. Candy: As they are finished, we get them. I get four sets and one set goes to Hanscomb Roy.

Mr. Shibley: I am talking about specifications that are employed to let contracts to subtrades, etcetera.

(Mr.Shibley)

Are these being provided?

Mr. Gumbert: Yes.

Mr. Candy: Yes.

Mr. Shibley: And they will be provided?

Mr. Moog: They always have been to my knowledge.

Mr. Shibley: Well, that is fine, that solves that problem.

Mr. Chairman: Mr. Moog, ^{do} ~~is~~ either you or your solicitor ^A can either you or your solicitor refer me to any term in the contract that has anything to do ~~with the~~

(Tape 1810 follows)

(Mr. Chairman)

~~There must be any term in the contract that has anything~~
to with the disclosure of your actual cost, either your
right to not disclose or any obligation on you to disclose?

Mr. Finlayson: No, there is no obligation to
disclose those figures under the contract, Mr. chairman.

Mr. Chairman: By the contract. No mention -
Mr. Genest, do you agree?

Mr. Genest: I agree with that, Mr. Chairman.

Mr. Shibley: Mr. Moog, just in pursuit of the
chairman's questioning: When you were discussing with Hydro
the sharing of any diminution in the cost from \$34 a square
foot, was there any discussion at that time as to what
information would be available?

Mr. Moog: No, sir.

Mr. Shibley: I see. Now then, the contingencies
allowances \$2 million as I say that's a million less in
Version Three ~~and~~ ^{and} my understanding from Hanscomb Roy is that
that is because more of the items have become precise so that
less is required. Item 13 however, in Version *Three*...

Mr. Genest: Mr. Shibley, excuse me, before you
leave that last point, I'm anxious that there not be any
misapprehension arising out of Mr. Moog's answer. There was
a considerable amount of ^{contension} ~~tension~~ between Hydro and Canada
Square as to whether Canada Square would be obliged to
disclose their actual costs. And the formula that is in the
letter dated October 18 represents a compromise between the
parties. Canada Square refused to disclose their costs.

Mr. Shibley: I'm going to be talking about what
this witness means by appraised value in due course. At the
moment I ...

Mr. Genest: I didn't want there to be any mis-
apprehension to the effect that it was never even mentioned
or raised.

3.00 - 3.05 p.m.
M.R.

Mr. Moog: I agree with Mr. Genest's explanation.

Mr. Shibley: All right.

Mr. Genest: That was an item of substantial negotiation and contention.

Mr. Bullbrook: It would be interest to know however if Mr. Genest can help us since the question of appraised value in the formula is an item of compromise, can we take it that Canada Square's position was that they weren't going to disclose their costs? Do we take it that Hydro's position throughout the negotiations was that it was essential that they disclose their costs?

Mr. Genest: ^(It was) ~~Hydro's~~ position that they should, when the crunch came Hydro were not prepared to cancel the deal over that issue and the formula that is in the contract was evolved as a compromise between the positions of the two parties.

What Hydro got in the formula according to its own interpretation is that it will get a building worth \$34 a square foot. Now Mr. Moog by economies may be able to build cheaper than that and in that way make a profit but on the market, Hydro's view is that on the market it will have a building that would cost them \$34, to get.

Mr. Shibley: Mr. Genest, I was going to ask that you desist from getting involved in interpretation of those words and rather to let it evolve from the evidence because I think this is a ...

Mr. Genest: I don't think you can get evidence on that. That's a legal matter.

Mr. Shibley: Well ...

Mr. Genest: What you can get is the position of the parties.

Mr. Shibley: Well, Mr. Genest, we'll see.

Mr. Genest: And if Mr. Moog doesn't agree with that, he is going to have a law suit on his hands.

Mr. Moog: I agree.

Mr. Chairman: A law suit might be easier on him than an investigation. I don't know.

Mr. Finlayson: *Perhaps I should revise that)*
~~One hundred~~ \$250,000 figure
for legal fees.

Mr. Shibley: I want to go on with the third version.


Mr. Walker: Which letter is that? October 18 - is that one appended to the contract? Is that what you are referring to?

Mr. Shibley: Yes. That's right. It's a supplementary agreement. Mr. Moog, Item 13 is the last item I want to deal with on Version 3. Finishes to Auditorium - \$175,000. You get it on Sheet #3. Do you see it - Item #13?

Mr. Moog: I honestly don't know how this one came about. It's the first time I've seen that figure.

Mr. Johnston or Mr. Rasmussen can probably explain that.

Mr. Shibley: Yes but at the moment, I'll tell you this: That "finishes to auditorium" was not part of the specification in the contract, it was not part of Version 1, it's now been included in version number three as an additional item and all I want from you is ~~whether~~.



H-1811 to follow

(Mr. Shibley)

~~That part of specification number one, it has now been included in version~~
~~number one. The additional item and all I want from you is~~
whether or not this additional item is going to be for the account
of Canada Square and without extra charge to Hydro and so to
speak include it in the basic \$34 price?

Mr. Moog: As I read it, Mr. Shibley, just by
looking at Hanscomb Roy's detailing, ~~where~~ where it says
lighting and finished mechanical system, I believe certainly
that we will supply an auditorium with a finished mechanical
system and perhaps that item was not ~~included~~ included before.

Mr. Shibley: No, no.

Mr. Moog: We will not put chairs in it and we
won't put bathroom in ~~there~~ because I know that those things
can completely get out of hand.

Mr. Shibley: No, it says, if you look at the
sheet, it says finishes to auditorium to include finishes --

Mr. Moog: I don't know what you mean by those
finishes.

Mr. Shibley: I think they mean wall finishes for
one thing.

Mr. Moog: I think there will be a finish specified
in our ~~specifications~~ specifications already.

Mr. Shibley: But may I ask -- you see again
here we are only talking about an allowance as an item, whatever
is the cost as an item; is it the obligation of Canada Square
to finish the auditorium?

Mr. Finlayson: I think perhaps you had better ask
Mr. Johnston. He tells me that that is an allowance and anything
over that figure will be borne by Hydro.

Mr. Moog: I would accept that ~~answer~~.

Mr. Shibley: All right. That is an allowance.
Anything over is an extra but to that extent Hydro has the benefit
of that amount.

Mr. Moog: I would think so, yes.

Mr. Shibley: I am trying to save some ~~some~~ lawsuits at the moment.

Mr. Moog: If we can get on ~~the~~ with the job, there won't be one.

Mr. Deans: Are we holding you up?

Mr. Moog: Oh, slightly, Mr. Deans.

Mr. Chairman: You should have told us before you went sailing, Mr. Moog.

Mr. Moog: ~~Allen:~~ *I felt we were* being held up ~~then~~ *then*.

Mr. Deans: I felt the same way.

Interjections by hon. members.

Mr. Deans: I thought that things were going along rather well even in your absence.

Mr. Moog: *We've got a good company!*

Mr. Shibley: Unless you want to go into anything further on that -- on those reports, Mr. Moog, or unless the committee has anything further, I am intending to leave those now and go on to the subject of what's intended by the phraseology "appraised value", and I would --

Mr. Henderson: Mr. Shibley, just one question. It is towards you and not the witness. Do you intend bringing ~~Walter~~ Hanescomb ~~and~~ Roy in ~~as~~ a witness?

Mr. Shibley: Yes I do, Mr. Henderson. I don't know that they are going to add to much in terms of the review I have given you of their reports this morning, but yes I will call Mr. Rasmussen and hopefully he can give you whatever you want.

Mr. Henderson: That is fine then.

Mr. Shibley: As I said earlier, my purpose ~~was~~ in going through ~~these~~ reports with Mr. Moog was I wanted a position of record for Canada Square vis-a-vis Hydro respecting extra costs of some -- well, in excess of \$2 million over what was in the original specifications as laid down by that contract, and I am satisfied now that these are being done at the cost of and for the account of Canada Square which ~~is~~ ^{I think} significant. Now, I remind the committee that the words "appraised value"

3.05 to 3.10 pm
DT

(Mr. Shibley)

are important in the context of two things, one in the context of if the cost of the building has an appraised value of less than \$34 per square foot, there is a formula for the abatement of rent, and in addition, there is provision under the ~~same~~ ^{self} letter agreement, which incidentally is part of exhibit two, it is the - I think it is the second last letter agreement dated October 18 - it is the third last one. I will read the words that are of significance. "Should the appraised value of the project be less than \$34,000,000, then notwithstanding the provisions of section 32, the rental of 484, ^{payable} ~~payable~~ by ~~tenant~~

(H-~~222~~ 1812 to follow)

(Mr. Shibley)

~~provisions of Section 32 the rental of \$84~~ Hydro to Canada Square under the building lease shall be reduced in accordance with the following formula¹, and then the formula is set out and I'd ask you also note paragraph (b)² ~~there~~.

"Notwithstanding the provisions of Section 29 of the agreement, the maximum amount which Canada Square shall be entitled to borrow under the permanent financing of the building shall be reduced from the amount of Canada \$45 million etc., by the amount which - I'm sorry, Canada³ ~~any~~ \$44,400,000 exceeds the appraised value as established above."

So that the appraised value of the building is going to govern not only the possible abatement of rent but, equally of significance, will govern the amount which can be borrowed against this building.

Now, in that latter respect, Mr. Moog, let us say - I'll come at it again later. To begin with I understand that Canada Square's concept of what is meant by "appraised value" is somewhat different than that as indicated by Mr. Candy when he gave his testimony. Is that right?

Finlayson:

Mr. ~~Moog~~ We'll, perhaps let's - could we have the precise language of Mr. Candy because I don't know - personally I don't know what ~~the~~ -

Mr. Shibley: I'll put it another way. What is your understanding of what is meant by "appraised value"?

Mr. Moog: I think Mr. Genest actually put it quite well just a minute ago.

Mr. Shibley: Which is?

Mr. Moog: That whatever this building would cost on the open market, when completed, would be the appraised value of the total package and if that does not come up to the amount stipulated then there would be a reduction rendered in accordance with this formula.

Mr. Shibley: That doesn't help, Mr. Moog, because if I may so say, with respect, you say if the appraised value doesn't, isn't it a fact that you have retained a real estate evaluator?

Mr. Moog: We have not retained anybody.

Mr. Shibley: You haven't?

Mr. Moog: No.

Mr. Shibley: All right. My information had been different. Is it your intention to hire a real estate appraiser, somebody that goes around appraising buildings?

Mr. Moog: I honestly don't think it will be necessary.

Mr. Shibley: No, that's not my point.

Mr. Moog: But if Hydro came up and said in the end the building is worth \$20 a square foot, of course we would.

But I don't think there is any question on that at all anymore.

Mr. Shibley: The kind of appraisal you have in mind is that which would be conducted by a real estate appraiser, not an appraisal of the kind that Hanscomb Roy break out.

Mr. Moog: It is established market value, Mr. Shibley, of the structure as it ought to be built for Hydro on that site.

Mr. Shibley: So that in 1975, if the circumstances of inflation being what they are, this building having let's say cost all in \$40 million to building, including interim financing, design and so on, but because of inflation an appraiser puts a value on the building of \$45 million, so far as Canada Square is concerned, the appraised value for purposes of this contract, is \$45 million. Is that correct?

Mr. Moog: Hypothetically speaking, Mr. Shibley, you are right.

Mr. Shibley: Yes.

Mr. Moog: Factually, however, that won't be the case. And that's the important point.

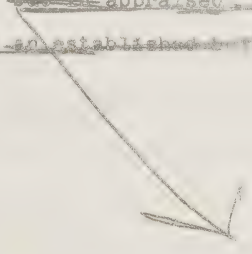
Mr. Shibley: Well, we'll see about — at the moment, I'm interested in knowing what your interpretation is, and just taking my hypothetical situation, * if the building has cost Canada Square \$40 million but because of inflation it's valued at \$45 million, then Canada Square is entitled to raise \$45 million against the security of that building.

Mr. Moog: Well, I think we ought to put that again into context. If we talk inflation, suppose tomorrow a depression hits us, which is quite possible the way our economy is going, and suppose that building on the other hand, through a depression would only be worth say, \$35 million, then we would also be suffering because then the appraiser would say that is what it is worth.

Mr. Shibley: You wouldn't put the cost break out before Hydro and say, "Look at the money we have spent ..."

Mr. Moog: That's got nothing to do with it. It's market value we are talking about.

Mr. Shibley: Stay with me with my example for the moment, because I didn't get an answer to the question. If in fact, the building cost \$40 ^{million} to construct, all in, inclusive of design and financing, ~~but is appraised because you've got inflation, you've got an established building and so on at \$45 million.~~



(Mr. Shibley)

but is appraised, because you have inflation, you have an established building, etcetera, at \$45 million, you are entitled to borrow \$45 million and to keep the extra \$5 million, Canada Square is, is that not so?

If ~~that~~ *the appraisal*
Mr. Moog: ~~that~~ in accordance with this contract and the letters attached to it, comes out at \$45 million market cost, at that time that is what we are entitled to, that's right.

Mr. Bullbrook: Not market cost?

Mr. Moog: Market, yes.

Mr. Bullbrook: Market cost?

Mr. Moog: Market value.

Mr. Shibley: You see, ~~that~~ *it is* is a difference, Mr.

Moog.

Mr. Moog: I mean market value, yes. But ~~I~~ *it is* don't think ~~there is~~ much difference.

Mr. Bullbrook: Well, that is very interesting.
That is what I thought the ~~level~~ *level* point ~~was~~ *was that you* -

Mr. Moog: Mr. Bullbrook, -

Mr. Bullbrook: You were just telling us that it is great. In your hypothetical depression - do you follow me?

Mr. Moog: Yes.

Mr. Bullbrook: The value you said ~~was~~ might well be much, much less than the cost.

Mr. Moog: If there is a depression or there is a ~~depression~~ *inflation*, there could be depression, that is all I am saying. I don't think *the level will be dropped*.

Mr. Bullbrook: What bothers me, if you will bear with me for a moment, what bothers me is, in assessing value the item of cost certainly has to be ~~significant~~ *significant*.

(Mr. Bullbrook)

In your own hypothesis to us in your opening statement, on page 19 again, you, in talking about cost, you included items there such as the actual cost of construction, your legal fees, engineering, etcetera, ---

Mr. Moog: They all form part of it.

Mr. Bullbrook: Right. They form part of cost and as a result ---

Mr. Moog: And form part of value.

Mr. Bullbrook: -- form part of value, too, right.

Mr. Moog: But if you are a bad contractor and if you put the ~~things~~ things in, then quite easily your value could be less than your cost, and that is the point I am trying to make.

Mr. Bullbrook: But what Mr. Shibley is trying to get, at least for my purpose, is for example you say on page 19: "It is to be noted that in this calculation no provision has been made for financing or underwriting charges". I would think that in appraising ---

Mr. Moog: That should be part of it.

Mr. Bullbrook: --- that should be part of it.

Mr. Moog: I agree.

Mr. Bullbrook: You ~~say~~ say "which on the evidence of Donald Smith would be a million dollars on a project of this size."

Mr. Moog: Right.

Mr. Bullbrook: ~~Yet the~~ evidence, since you gave this evidence, has come out that your cost is \$100,000.

Mr. Moog: That is right.

Mr. Bullbrook: Not a million?

Mr. Moog: That is right.

Mr. Bullbrook: That is basically what I am interested in. ~~22~~ If you are able to save \$900,000, part of our function is to find out whether Hydro is getting a good deal here or not.

Mr. Moog: Hydro is getting a good deal regardless, that is the point I have been trying to make over and over again, it doesn't make any difference which way you approach it.

Mr. Bullbrook: Sorry to interrupt you.

Mr. Moog: But by appraisal method, I agree we should be giving the benefit of the \$900,000. But we don't have to resort to that.

Mr. W. Hodgson: Supposing there are a lot of delays in this building, I'm not talking about this hearing, I'm talking about strikes, and this ~~could~~ ^{building} very ~~well~~ ^{well} go into '76 ~~and~~

Mr. Moog: Possibly, yes.

Mr. W. Hodgson: It might very well cost you maybe \$50,000.

Mr. Moog: \$50 million.

Mr. W. Hodgson: \$50 million, rather; ^{and they come up with the appraisal} but the building wouldn't be any more value ~~it could~~ ~~be a pretty~~ ~~thing~~

Mr. Moog: That is the whole point, quite so. We have assumed all the risks. We have said to Hydro, you sign this contract with us, we will perform, we will give you what you ^{have} ~~contracted~~ for and it will be good value, and we will do and we will not disappoint you. And that I promised Mr. Candy; under normal circumstances, that is.

Mr. Chairman: Mr. Henderson.

Mr. Handerson: Mr. Shibley, you can help me. What page is this wording in the contract?

Mr. Shibley: It is in the supplementary letter agreement, at the very back of ---

Mr. Henderson: What interpretation ---

Mr. Walker: We ~~are~~ were given a letter ~~on a~~ *separate occasion.*

Mr. Shibley: Oh, I am sorry.

Mr. Walker: ~~It was marked part of Exhibit No. 3, with no ---~~

Mr. Henderson: Does it state - I haven't read it apparently - does it state that it is on cost or on value?

Mr. Shibley: It says "appraise the project" and it says "appraised value". The wording that we are struggling with, Mr. Henderson, is ~~that~~ the interpretation of those words. What is meant by appraising the ~~pr~~oject, what ~~are~~ is meant by appraised value, as employed in that letter agreement. And I am trying to get from the witness some understanding of what ~~are~~ you see, Mr. Candy gave us his understanding of what that meant and it is a matter of record and I am not going to try to paraphrase it. Now I want the position of Canada Square as a matter of record which I view to be something different than what Mr. Candy views to be the case.

Mr. Moog: ~~I think it is~~ *I think it is* spelled out in the contract,

Mr. Shibley *and I am really not that much of a lawyer to interpret it again* or, rather, Mr. Chairman,

Mr. Finlayson: Mr. Shibley ~~and I am really not that much of a lawyer to interpret it again~~

I should address my remarks to you, I am not objecting to my friend asking ~~the~~ Mr. Moog as to what he thinks these words mean, but I take the same position of this as does Mr. Genest, that the contract speaks for itself.

(Tape 1814 follows)

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3.20 to 3.25 pm
DT

(Mr. Finlayson)

~~think the words mean but in the same position as this~~
~~Mr. General that the same words mean the same~~ If there is going to be ~~admiss~~ a dispute, some court is going to have to determine what that language means and I don't care what Mr. Candy says or what Mr. Moog says, or what Mr. Shibley says, or what I say, the court is going to make up its own mind on a reading of the contract itself. Now I appreciate that we are not ~~x~~ trying to resolve lawsuits in advance and that this committee is entitled to probe into the circumstances which gave rise to this particular contract and I have no objection to Mr. Shibley asking Mr. Moog what he thinks that language means any more than I objected to him asking Mr. ^{Bradshaw} ~~Bradshaw~~ what he thought it meant.

I want to make it perfectly clear that I, in no way, regard Mr. Moog's answers as binding on Canada Square, that they ^{are what} ~~are~~ an estoppel, they ~~are~~ not an interpretation by him no matter how senior an officer of the company that he is.

Mr. Chairman: Well, thanks, Mr. Finlayson.

I think it's important to the committee, whose task was to examine the contract, that we should get as many interpretations of the meaning as there are. Now, Hydro has one interpretation and Mr. Moog has another, I think it is important that we should hear the various views ~~and we~~, ourselves, will have to eventually come to our own opinion, ^{which} ~~may~~ say or may not be what any particular ~~some~~ court would put on it, as to the meaning of it ~~but in the meantime~~ I think we are trying to establish, even though it is a legal document, we are trying to establish ~~what~~ the parties think it means ~~and~~ I think that's quite reasonable and I appreciate your ~~own~~ objection ^{that} ~~but~~ what Mr. Moog ^{say} ~~may say~~ is not necessarily the legal interpretation of this contract.

Mr. Shibley: Mr. Moog, when you were negotiating for the ultimate formal contract with Hydro, I take you back to the period after July 19 when Hydro ^{agreed} ~~closed~~ making a contract

(Mr. ~~Shibley~~ Shibley)

with you, July 19, 1972, and at the time you gave instructions to Mr. Bradshaw, when I think he said it was around August 3rd that he got instructions at a ~~met~~ meeting but I gather you also got further instructions, he drafted a draft agreement, is that correct?

Mr. Moog: Yes, I believe so.

Mr. Shibley: Some time I believe in August, on August 24th, 1972, he drafted an agreement, is that correct?

Mr. Moog: I believe that is so.

Mr. Shibley: And was your intention as to the items that would go into the valuation of the building outlined at that time? Well, let's put it this way, had you formulated in your own mind at that time what should be the elements entering into ~~the~~ valuation?

Mr. Moog: I can't recall what happened at that particular time. We did discuss all sorts of approaches on how we could come to a contract. I really don't recall in detail any more ~~at~~ what was all said and what was done.

Mr. Shibley: In any event, your approach to what was to be included in valuing the building as of August, 1972, is no different than it is today?

Mr. Moog: I think the contract lines ^{that} quite carefully. We had quite a lot of negotiations with Hydro on it and we believe that --

Mr. Shibley: No, Mr. Moog. Were your views as to -- or is your understanding as to what is to be ~~be~~ included in the valuation ~~is~~ any different than you intended as of August, 1972?

Mr. Moog: Not any different than the contract.

Mr. Genest: I think the witness -- I am not speaking for Mr. Pincheyson, ^{the witness} but I think the witness -- ^{Mr. Genest} -- if we are talking about a particular document, I would like to see it.

Mr. Shibley: You are going to see it in a minute, Mr. Genest. At the moment I would just like to know what the views of the witness are.

Mr. Genest: Well, he said he doesn't know what was in the August document.

Mr. Shibley: That's not what we are talking about.

Mr. Genest: Well, there was apparently a draft. This is how I gather the drift of your questioning. There was a draft that set out and I recall seeing it that set out a number of items. Well, I think we should have them in front of us we are ~~we~~ being asked or the when ~~the witness~~ witness is being asked if his views on this interpretation are in accordance with what was in that document.

Mr. Shibley: Well, all right. As a matter of fact, I would like to show you the document, Mr. Genest, because I got it from Mr. Bradshaw's file and it was not included in either the Hydro file or the Canada Square file that was sent to me. I had asked to be produced to the witness a document dated August 24, 1972.

(H-1815 to follow)

(Mr. Shibley)

~~...the Hydro file on the Canada Square file was sent to me had asked to be produced to the witness a document~~

~~dated August 24, 1977~~

Mr. McCallum: What does that have to do with it?

Mr. Bullbrook: That's got a lot to do with it.

Mr. McCallum: Just a minute. The Hydro file might well not have a draft prepared by Bradshaw. On the other hand, my files will have it and do have it. I wouldn't want anybody in the room to take ^{from} what Mr. Shibley has said that anything that Hydro had was not revealed, they have been, sir. I ~~am~~ can assure you.

Mr. Bullbrook: No, well, Mr. McCallum, let me understand you. It was you - Hydro and yourself took a completely different position than Canada Square and that is that there was no solicitor client privilege and you were prepared to disclose everything relevant to it.

Mr. McCallum: And I am. And I am. My files are not up in front of you ~~or~~ nor Mr. Shibley. You are coming ^{to them}. ~~There's~~ ~~enough~~, no problem here.

Mr. Bullbrook: I take it that the distinction that you make is that those files and documents that have been provided to us thus far were in the hands of Hydro, not necessarily in the hands of their solicitors.

Mr. McCallum: That is correct, nothing else but.

Mr. Bullbrook: I appreciate that.

~~Mr. McCallum: Are Hydro's files~~

Mr. Shibley: Well, Mr. McCallum, I'm glad you raised that because - ~~did we ask~~ I'm instructed by Mr. Bell that we requested the files of Harries, Houser some time ago and we still don't have a copy.

Mr. McCallum: Well, I'm sure you don't ...

Mr. Shibley: I'm sure it's not your intention to withhold them but we don't have them.

Mr. McCallum: No, I know you don't. That's what I'm saying so I didn't want anybody to think that there was anything that Hydro was doing that was keeping you from getting those drafts.

Mr. Shibley: We've been getting on so beautifully today I don't want to create any ~~trouble~~ ^{vacuum}. I didn't intend anything by it.

Mr. McCallum: All right. I just didn't want to impute ^(anything) to Hydro that would be wrong doing and we are fine.

Mr. Chairman: We hope we can carry on that way. Exhibit 209.

~~Mr. Deans is wondering~~

Mr. Shibley: Well, Mr. McCallum has said he is going to supply it. Mr. McCallum, Mr. Deans is wondering when you are going to turn your files over to me?

Mr. McCallum Genest: I have them, Mr. Shibley. We have been trying to produce things day by day. I took a holiday, as I'm sure some of you did, if there is any blame on that it's on my shoulders. I have been doing my best.

Mr. Shibley: Nobody is blaming anybody, Mr. Genest. It ~~still~~ still doesn't answer the question, however.

Mr. Deans: When are we getting them?

Mr. Genest: Here.

Mr. Shibley: Which is a problem.

Mr. Renwick: You chaps aren't used to the new atmosphere around here yet.

Mr. McCallum: No, but it's the old thrust.

Mr. Genest: You will have it forthwith.

Mr. Shibley: Thank you.

An Hon. Member: We are not used to that.

Mr. Shibley: Well now, Mr. Moog, you have had all this time while we have been having our exchange to look at the document which is Exhibit 209 and I should tell you that I got this document out of Mr. Bradshaw's file and it reads "references made to the agreement"

Mr. Renwick: Mr. Chairman, just before you go on, could I ask just two questions with respect to that October 18 letter where the term "appraised value" is used. I take it that whatever the negotiations were that it was agreed that it was not to be cost and it was also agreed that it was not to be market and that therefore you came up with the term "appraised value" and that "appraised value" is therefore something different from cost; something different from market, or at least if they happen to be the same, it's pure coincidence?

Mr. Moog: It shouldn't be that much different
Mr. Renwick. I understand what you are saying. I believe it is correct to say that "appraised value" and "market value" should be very very close.

Mr. Renwick: Well, let me put it this ...

Mr. Moog: As a matter of fact, I think they should be synonymous.

Mr. Renwick: Let me ask - yes, well, this is what is interesting to me because there are many situations in which, as my colleagues in the legal profession have indicated, ~~where~~ the term "market value" is not adequate because there is not a willing buyer and a willing seller and that ...

Mr. Moog: We do have that in this case.

Mr. Renwick: ...you therefore have to depart from market value and come up with some other method of placing something called a value on that building.

Mr. Moog: I don't follow you on that portion of your statement, Mr. Renwick: I believe it should be the same because we do have a ~~building~~ willing buyer and a willing seller.

Mr. Renwick: Well, this is - and I would appreciate it if Mr. Shibley would perhaps pursue better than I can, the point I'm trying to make on this -

~~would perhaps pursue better than I can the point I am trying~~
to make on this is that I take it on a clear reading of the
October 18 document that if you had meant market value or
something close to market value you would have used the term;
if you had meant cost as the value, that term would have been
used, but you selected a firm expert in the field and you
adopted the known phraseology "appraised value". In a sense
that must be a judgmental value as to what that building is
worth, because it is not market and it is not cost. Now,
before we go on to ~~show~~ this Exhibit 209 I would like to sort
of clear that aspect of it, if Mr. Shibley could help me.

Mr. Shibley: The difficulty I am having, and that
is part of why I am introducing this exhibit, is to try to get
some understanding of what Canada Square believes are the
elements that are going to enter upon the evaluation of the
building, using ~~the~~ word which is an extension of the word
in the contract. If so, then we will have some understanding
of what Canada Square intends in the computation of the \$44
million and perhaps we can get at it in that indirect way,
because I have tried to come at it head on and I'm not having
much success, because terms get scrambled.

Mr. Renwick: Could I ask two other sort of marginal
but related questions then? Perhaps either Mr. McCallum or
Mr. Genest or Mr. Finlayson would answer for me.

If Chaffe, MacKenzie and Ray carried out this
appraisal ~~appraised~~ and appraised the project and they come up with
an appraised value, are Canada Square and Hydro bound by
that appraised value because the document doesn't specifically
say so? Or is the recommendation of the appraisal firm simply
a basis on which Hydro and Canada Square then go through a

(Mr. Renwick)

procedure to determine what the appraised value is?

Mr. McCallum: If they ~~didn't~~ agree ~~obviously~~ obviously it would then end up in the same position as ~~described~~ described by Mr. Finlayson. Let us assume, for example, that one side said, "There you are, there is your appraised value" and the other side said, "Oh, no, that's not it." Then, as Mr. Finlayson said, ~~I guess there would have to be some other place~~ to which resort would be had.

Mr. Renwick: So that I take it that it is clear that this appraisal firm, ^{if it} ~~Chaffe~~, ^{or} MacKenzie, ^{or} whoever it is, has no authority to come up with a figure which is binding on the two parties?

Mr. Shibley: I think Mr. McCallum has answered a different question than you put. I think if you look at the document, it says "there shall be an appraisal" and if it is less than 44, "then the rate shall be adjusted", so you have a contractual obligation that emanates from the consequences of that appraisal. And to that extent I would think it is binding. What I think Mr. McCallum is talking about is this, if they cannot agree as to what elements enter into the appraisal - let's say that Hydro say, "Oh, no, you are not entitled to include royalties in the appraisal to bring it up to \$45 million and if you are ~~claiming~~ claiming \$2 million for royalties, forget it, it's only \$43 million without royalty and we want an abatement." And whereas Canada Square says, "Oh, well, we say royalties are to be an element that enter into it and that makes it up to \$45 million and you are not only not entitled to an abatement but we're entitled to borrow \$45 million, even though we only expended \$43 on the building because that's what the contract says".

Mr. Renwick: Well, Mr. Chairman, I don't want to labour this but it seems to me from my thinking important for me to be clear about it. One possibility on the wording of the letter of October 18 is that each of the parties, that is, Canada Square and Ontario Hydro, agree to select an appraisal firm and turn the problem of coming up with the appraised value over to that firm. That firm makes its appraisal on the available matters which have been provided to it and then that appraised value is binding on both parties.

Mr. Shibley: Mr. Renwick, you have just put your

~~Mr. Renwick~~

(Tape 1817 follows)

Mr. Shibley
~~have been awarded to it and that that appraised value is binding on both parties.~~

~~Mr. Renwick: That's not the case. If Mr. Shibley's~~
finger on the problem, what instructions are going to issue to that appraiser, that's the problem.

Mr. Genest: The position that I take, Mr. Renwick, is that we are bound by the appraiser on matters of judgement as to what an item is worth.

Mr. Shibley: Right.

But

Mr. Genest: ~~we~~ we are not bound by his

determination of what is a relevant factor in the appraisal.

Mr. Shibley: That's the case.
Genest: in other words, if we say he has proceeded on wrong principles --

for instance, let us say that he said, well, there is a lease here for 30 years and I don't have to pay any attention to what is on the site. I just multiply the lease, what would somebody pay for that income stream. I don't think that's tenable on the face of this letter, but let's say he said that. That would be utterly, ~~an~~ utterly unacceptable way to value the building from Hydro's point of view and I say we are not bound by the appraiser's determination that that is a proper way to determine value, but we are bound, I would think, by his judgement of what the window is worth or of what the podium is worth. We are bound by that.

Mr. Renwick: Perhaps this is jumping ahead, then I take it that there is no such document in existence between Hydro and Canada Square outlining at this point in time the factors which are to be taken into consideration as relevant.

Mr. Genest: That's correct.

Mr. Renwick: -- to the appraised value.

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: I just wanted to -- that's a very important point because the letter that we have here of course. I don't know whether -- first of all, was the letter sent out? It is not signed. Let me ask this first --

Mr. Shibley: I am taking it from what Mr.

(Mr. Shibley)

McCallum says is that he did receive a copy of this, or his firm received a copy of this letter at that time; is that right?

Mr. Genest: Yes, that is correct.

Mr. Chairman: Part of the contract.

Mr. Genest: ^{He was as a draft.} The August 24th letter was a proposed draft language.

Mr. Shibley: A proposed draft, and that is why I was asking the question ~~whether the language~~ what this witness has in mind as items going into the computation is the same today as it was last August, because --

Mr. Renwick: But I ~~asked~~ it, Mr. Chairman, Mr. Bullbrook was referring to the October 18 letter.

Mr. Shibley: No, no.

Mr. Bullbrook: No, I was referring to the August 24 letter which apparently sets out a certain criteria in establishing costs, *not value*.

Mr. McCallum: That is true, but what happened was, as you will see as the evidence is developed, Mr. Moog can tell you, that ~~was~~ was one of the first, if not the first, proposals put forward by his side. Subsequently they put forward others and the difficulty that the witness is having is that when Mr. Shibley says to him -- well, the language that you used back in August 24th, is that the language you subscribe to today? It isn't. ~~His~~ His thoughts went ^{on} ~~from~~ from that point into other drafts at a later time or at least his advisors did, and that's how eventually there came about an agreement which has been signed by both sides.

Mr. Shibley: ^{and} Mr. McCallum, I agree with you and that's ~~my~~ -- you see I can only take it step by step, and I had hoped that by starting here and progressing through the negotiations we would at least have that much information as to what Canada Square's understanding as to the items to go into the valuation may be and if we can now go back to the letter, which is exhibit 709, I will start on page one with you, Mr. Moog. It

(Mr. Shib ley)

says, "Following completion of the construction of the building, building architects shall certify to Hydro and Canada Square the cost or value, whichever is the greater, of the usable office space." Stopping there, Mr. Moog, your thoughts then were that you wanted a premise of cost or value whichever was greater. It didn 't turn out that way but that was your then thinking.

Mr. Moog: This was part of our negotiations, *originally.*

Mr. ~~Shibley~~ Shibley: Yes: "Cost or value, whichever is the greater, of the usable office space contained in the building which shall be calculated by dividing the total cost of the building -- and again the word cost is ~~used~~ ^{hereafter} used -- " to be calculated as ~~provided~~ ^{hereafter} provided, or the ~~a~~ total value of the building as established by an ~~an~~ independent appraiser, whichever is greater, by the number of square feet of usable office space in the building." And I would ask the members to note very carefully the words "divided by the number of square feet of usable office space in the building". This is not to be confused with gross space, ~~as expressed in the~~

(H-1818 to follow)

3.40 - 3.45 p.m.
M.R.

(Mr. Shibley)

~~in the building. It's not to be considered with regard to~~
Am I correct in that, Mr. Moog?

Mr. Moog: That's what it says.

Mr. Shibley: At this point of time, usable office space as it relates to the total space of the building may be 75 or 80 per cent.

Mr. Moog: I think that's not a good figure you are using.

Mr. Shibley: Well, ...

Mr. Moog: It's, I think, quite a lot higher.

Mr. Shibley: All right. My memory of your own files - calculations on the building as originally planned was that it was about 75 per cent usable, efficiency rate was very low.

Mr. Moog: Well, that was the old Hydro building.

Mr. Shibley: Yes, I know that.

Mr. Moog: Not our building.

Mr. Shibley: Right, but in any event, what was intended here then and I want it clear that you would take the total cost or appraised value, whichever is greater, and divide it, not by say a million, three square feet but let's say one million one hundred and fifty thousand square feet, which would be the usable area and ascertain whether that came out to \$34 a square foot?

Mr. Moog: That is what this says.

Mr. Shibley: Yes. And, of course, the reduction in the area which was to be employed in making this computation ~~would~~ would make it easier to get to the \$34 figure, the lower the divider, the higher the amount.

Mr. Moog: Depending on ~~the~~ ^{your} efficiency.

Mr. Shibley: Okay. Now then, in calculating the cost of the building, there shall be included all payments to contractors engaged in the construction of the building or any part thereof, including progress or partial payments on account

(Mr. Shibley)

of property or services and payments to utilities. Now ~~stop~~ stopping there, Mr. Moog: At that time, was it not part of your thinking that the amounts paid to the contractors would be known to both parties and included in the computation?

Mr. Moog: I think that that part of the negotiations we considered that at once, yes.

Mr. Shibley: So that - did you at any time thereafter, tell Hydro that although the wording had changed your intention as to providing them with the figures as to all payments to contracts had changed ...

Mr. Moog: ~~That~~ Mr. Shibley, this letter was presented once and disregarded immediately. And I never referred to this letter again. If you wouldn't have brought it up I probably would have almost forgotten about it.

Mr. Shibley: Well, I know, Mr. Moog, but ...

Mr. Moog: No, I did not.

Mr. Shibley: You never told Hydro people that you weren't going to tell them what the payments to contractors were.

Mr. Moog: I told Hydro people that I would not tell them ~~what~~ what our costs were. I made it quite clear to Hydro that I would not tell them what our costs were.

Mr. Shibley: All right.

Mr. Moog: Absolutely clear to them.

Mr. Shibley: All right. Then (b) ...

Mr. Finlayson: In fairness, I think people's attention ought to be directed to paragraph (g) because it specifically says that the following items, whether or not such amounts have been actually paid or will be ~~payable~~ payable by Canada Square shall be included.

Mr. Shibley: I'm going through the whole letter.

Mr. Finlayson: Yes, but I mean, you are suggesting that there is some implied agreement by putting this proposal forward that there would be some kind of an audit of our books

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and yet it is quite clear that there's items in there which are payable whether they are expended or not.

Mr. Shibley: May I go on, Mr. Moog, and say (b) Cost of Labour and Services; (c) Cost of Material Supplies, Machinery, Plant Equipment and apparatus. Now, again, in August of 1972, these costs were intended to be provided to Hydro so that whatever is the present arrangement if they are not ~~to~~ to be ...

Mr. Moog: Costs ~~of~~ value ~~are~~, as Mr. Finlayson just pointed out in paragraph (g).

Mr. Shibley: (g)?

Mr. Moog: Yes.

Mr. Shibley: Or (d)?

Mr. Moog: (g).

Mr. Shibley: Well, it doesn't say anything about value in (g). General and administrative expenses and all other costs of construction of the building. We are still talking about costs and what is bothering me is, throughout here, as of August 24, the intent seems to have been that these cost elements would be a matter of common information and I want to know whether at any time it was specifically agreed that it would be a part of the information provided to Hydro?

Mr. Moog: I think I have given you the answer to that.

Mr. Shibley: I'm not sure I got the answer.

Mr. Moog: Well, I said no.

Mr. Shibley: All right. Then it goes on "Taxes, rentals, licences, permits..." and I ask you to note particularly the word "royalties", duties, excises, assessments, architectural, engineering, consultants, accounting and legal expenses, superintendents and casualty, surety and other insurance premiums relating to the building.

(1819 follows)

(Mr. Shibley)

I will come back to royalties later.

"(e) Interest during construction on interim construction loan.

(f) General and administrative -- "

and I gather again here at this time the intention was - let's say this agreement had been made, I presume that you would then have told them what your interest on interim construction loans amounted to?

Mr. Moog: Well, I can't really tell you now what went through my head then.

Mr. Finlayson: Mr. Shibley, I don't like to like to interrupt ^{on this thing} but I think you ^{keep} have been misreading this thing, because it talks about cost or value.

Mr. Shibley: Where?

Mr. Finlayson: At the start.

Mr. Shibley: "Whichever is the greater," Mr. Finlayson. You ~~are~~ have to provide both.

Mr. Finlayson: Well, presumably if the value is in excess of \$34 per foot, you don't have to worry about what the cost is, do you?

Mr. Shibley: That is the presumption that Mr. Moog seems to labour under all the time, ~~the~~ but we are interested in knowing what ~~the~~ might have been the circumstances ~~which~~ - let us say that the interpretation is one of cost or let us say this agreement ~~had~~ been entered into and it was cost or value, whichever is greater, you are presuming that - Mr. Moog has said it may be worth less because we run into strikes, etcetera, it might have a value of less than the cost.

Mr. Finlayson: And he is protected because if it

(Mr. Finlayson)

has a value of less than - to go to your example - if it has a value of only \$40 million in 1975 then he goes to cost, and he says, "But it cost me \$48 million". Therefore I then produce my figures as to cost, which demonstrate that the cost is in excess of value, but you have to keep in mind that even in the definition of cost under (g) it is made quite clear that there are certain deemed costs whether they are incurred or not.

Mr. Shibley: Well, I will get to (g). But let us go on. My only question at the moment is, as at the time of this negotiation the intention was that costs would be known to Hydro.

Mr. Moog: I'm not sure what we discussed at that point, it was a very brief discussion on this letter and it ^{completely} seemed unacceptable to Hydro and we forgot about it.

Mr. Shibley: All right, let's go on.

"(f) general and administrative expenses and all other cost of construction of the building;

"(g) the following items whether or not such amounts have been actually paid or will be payable by Canada Square:

1. 10 per cent of ~~the~~ the cost of the building for overhead.
2. 10 per cent of the cost of the building for construction profit.
3. Royalties for features included in the building and leasehold improvements therein which are patented or otherwise protected.
4. Fees for architectural services in accordance with the tariff of the Ontario Association of Architects.
5. Interest during construction at the rate of

(Mr.Shibley)

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E.M.

15 per cent per annum on all interim construction loans to the extent not previously included. If the amounts per square foot so certified shall be less than \$34, then there shall be an appropriate reduction".

Now, Mr. Moog, I gather from this document that when you were computing the base figure of \$34 per square foot that all of the items referenced in this letter were included in your thinking. Is that correct?

Mr. Moog: Yes, ~~that was the case~~.

Mr. Shibley: So that if in fact later on overhead was eliminated as an element entering into the cost of the project, that should have reduced the price from \$34 to ~~some~~ \$30.60, is that correct?

Mr. Moog: If you could eliminate overhead, I don't know how you can. ^{still} But we ~~should~~ *should get an allowance for it.*

Mr. Shibley: I am not talking about overhead, I am sorry, 10 per cent of the cost of building for profit I said. If you decided later that you were prepared to build ~~the~~ the building without a building profit, then on the basis of your then thinking, you should have been able to talk about building this building at a cost of \$30.60.

Mr. Finlayson: Oh that, with great respect, is most unfair, because he has already got other things in there which more than compensate for that, the royalties for instance which he has not included ---

Mr. Shibley: Well, I am going to get to the royalties. He has said that ---

Mr. Finlayson: No, just a minute. ~~Mr. Chairman~~ *Mr. Chairman*
With respect, you just can't chop this thing up this way, He has

(Mr. Finlayson)

H-1019-4

L.M.

things in there ~~are~~ ^{that} you could take that 10 per cent out, but
it doesn't mean it is going to reduce the ~~work~~ cost by 10 per
cent because he has ^{other items} ~~underwrites~~, he has interest during
construction at 15 per cent.

~~Mr. Finlayson: Mr. Chairman, I asked the first basic
question. My second~~

(Tape 1820 follows)

~~Mr. Shibley:~~
~~Mr. Shibley:~~
Mr. Shibley: Mr. Chairman, I asked the first basic question--and my friend isn't listening, I suspect, because what I asked the witness before I started down this line was: When you computed the cost at \$34 per square foot, were all these items included and he said "yes", and having said yes to that, I said "okay" now if these items are dropped or any of them are dropped, it should have represented a drop in the cost of construction as then contemplated.

Mr. Finlayson: No, you're just - listen, you are not listening to me, with respect. All this is saying is that if you add all these things up, it isn't going to be less than \$34. That doesn't mean it isn't going to ^{be} \$41.

Mr. Shibley: Mr. Chairman, I think the record will speak for itself. The question I put to the witness was, "When you computed the cost at \$34, were all these items included?" and he said, "yes".

Mr. Moog: No, but that doesn't mean that it couldn't be more than \$34.

It could easily be \$45.

Mr. Shibley: I see. Well, if it was going to be \$45 per square foot and you expected to be paid for overhead, construction ~~preliminary~~ profit, royalties and so on, would you not have quoted \$45 per square foot?

Mr. Moog: Mr. Shibley, you are asking me on something which was at one time a point of negotiation. I really ~~cannot~~ can't explain this any further to you.

Mr. Finlayson: Mr. Chairman, I'm as good at reading documents as anybody I think and I would point out that all this is directed towards this draft letter, is giving some guarantee to Hydro that their building will be worth at least \$34, ~~and~~ what Mr. Moog's proposal here is that if you take all those ~~xx~~ items ~~xxxx~~

(Mr. Finlayson)

from (a) to (g) inclusive and you calculate them on that basis, you are going to end up with a figure which will be at least \$34. And I presume that what Ontario Hydro did was say, "yes, I'll bet it will be at least \$34; it will probably be \$50".

So that when you start taking out individual items of this safety clause, which is directed to Hydro's protection, you don't take those figures off \$34, you have got to take them off what all these things would add up to be.

Mr. Moog: In the first place.

Mr. Finlayson: In the first place. And I presume *that's* why Hydro said, ^{sup}we'll go it another way — you don't mind."

Mr. Chairman: Well, I just wondered what the significance of \$34 was then. How did they arrive at the \$34 figure?

Mr. Finlayson: Because they've got to provide a building which is worth \$34. And what Mr. Moog's proposal here is that "I will demonstrate that that building is worth \$34 by putting these items in." ~~What~~ ^{What} Hydro says is, "Why restrict yourself to \$34? If you stick all those things in, you could probably demonstrate that the building is worth \$45."

Mr. Shibley: You just made the point.

Mr. Renwick: Mr. Chairman, the operative clause — I must be missing something — the operative clause in this letter is the last paragraph.

Mr. Shibley: That's right.

Mr. Genest: That's right.

Mr. Renwick: That if it's less than \$34, then there is going to be an adjustment.

Mr. Finlayson: So what Hydro says is if you apply that formula it will never be worth less than \$34.

Mr. Shibley: ^{What} Hydro is really saying, I think, is that if you apply that formula, the cost ^{of} ~~to~~ construction of the building could be as little as \$20 and all these items might amount to \$14 and you would be able to prove your \$34.

3.50 - 3.55 p.m.
M.R.

Mr. McCallum: Sure, that is right.

Mr. Finlayson: Yes, that is what Hydro is

saying.

Mr. Shibley: That's right.

Mr. McCallum: That is the same thing *Mr. Finlayson was saying.*

Mr. Shibley: Do you agree with that, Mr. Moog?

Is that what Hydro were saying?

Mr. Moog: This is why Hydro didn't want this one.

Mr. Shibley: Yes. Well, now, why then in the computation of the formula for evaluation were these included?

Mr. Moog: These were never included. This was a proposal we made to Hydro. That is all and they turned it down right away.

Mr. Shibley: If Hydro had not turned it down, then you would have been able to build a building ~~down~~

Mr. Moog: We would have never done that either,
Mr. Shibley. Just ~~not~~ let's not always read things into this.

Mr. Shibley: I see. Well, now, let me ask you something: When did you agree that there should be no element of construction profit?

Mr. Moog: I don't think I ever said we agreed on that.

Mr. Shibley: Well, that's what I want to know right now. Is construction profit to be an element in the appraisal of the ~~value~~ *value of this building?*

Mr. Moog: It is up to the appraiser to decide.

Mr. Shibley: I beg your pardon?

Mr. Moog: It is up to the appraiser to decide.

I'm not going to intepret these two ~~pages~~ pages, I think they have been dealt with in great detail from both sides and I think they should speak for themselves. ~~==~~ If the appraiser decides there should be a construction profit in it, then there will be. If he says ~~no~~ *no*, which I don't really think he will, then there won't be.

(Mr. Moog)

I think, again, it's immaterial because I think we are overshooting the mark anyway.

You have got the Hanscomb Roy report right there and you have got all my opening statement which makes it quite clear what Hydro is getting.

~~CONFIDENTIAL~~

H-1821 to follow

Aug. 27/73
3.55 to 4.00 pm
DT

(Mr. Moog)

~~I think we are overshooting the mark anyway. You have got the Hanscomb Roy report right there ~~awaxd~~ and you have got my opening statement which makes it quite clear what Hydro's getting.~~

Mr. Shibley: Well, there ^{are} ~~are~~ some elements of those figures that are still open to review, Mr. Moog, but at the moment what I want to know is I thought you had said earlier that there wasn't going to be a construction profit.

Mr. Moog: There isn't in this Hanscomb Roy report, and I haven't referred to one because I don't think I really have to throw those things in in order to make up \$34. ~~four~~

Mr. Shibley: What this committee is entitled to know is whether you intend a construction profit in the evaluation of this building.

Mr. Moog: I have said that I will leave that up to the appraiser as the agreement reads.

Mr. Shibley: The appraiser is going to say to you and Hydro, "What do you understand to be included in the appraisal you are asking me to make?" Now, what instruction are you going to give him?

Mr. Finlayson: Well, if the appraiser ^{asks} ~~asks~~ ^{question,} that the appraiser will be sent home because after all he is supposed to come up with an appraised value not just come and ask us what we want for it.

Mr. Chairman: I think we will take a break here for about 15 minutes.

(H-1822 to follow)

The committee resumed at 4.18 o'clock, p.m.

Mr. Chairman: I will just call it back to order.

I think we have got a quorum ~~here~~ here. Yes, fine.

Mr. Shibley: I just want to know what items in here that are still open in your thinking. It goes on:

"Item 3, Royalties for features included in the building and lease-hold improvements ^{herein} which are ~~are~~ patented." Are you intending that be part of the appraisal?

Mr. Moog: Mr. Shibley, the appraisal firm referred to in the contract is Chaffe, MacKenzie and Ray. They are a very competent firm. They are professional engineers as well as members of the American Institute. They are about as great as you can get and it is that type of a firm which both Hydro and we think ought to appraise the building, if there is any question at all, and complete it and I think they are quite competent in assessing a royalty, ^{when} ~~even though~~ a royalty should be due and if a royalty shouldn't be due, I think they will also be competent enough to say no. We think there ought to be a royalty but whether they will or not, I couldn't tell you.

Mr. Shibley: And then, when you talk about architectural services, would that include in-house services?

Mr. Moog: That would be the normal architectural fees applicable to this type of a job as I have already said.

Mr. Shibley: And then interest during construction at the rate of 15 per cent per annum on interim construction loans, is that the figure that made up your \$6.9 million for interim financing?

Mr. Moog: I don't think we used 15 but let me just check that, did we?

Mr. Moog: No, we did not. We used a lower figure.

Mr. Bullbrook: What is the normal bridge financing cost for developers?

Mr. Moog: Well, Mr. Bullbrook, it depends on the time you borrow. ~~Right now I would think 15 per cent would be~~

4.20 - 4.25 p.m.
M.R.

(Mr. Moog)

~~the time you have~~ Right now I would think 15 per cent would be quite apropos. I would have hoped that we could do for a fair bit less and, well, it just depends entirely on the timing. Right now ~~there~~ they are at an all-time high. I consider this time an economic crisis as it has never been before, happening in history, ~~and~~ I think this is one thing which I wished I could just make clear to everybody that what we are setting out to do is becoming a very difficult task, in financing, in inflation, in construction. As a for instance, our structural steel just in the last week or so doubled in price. It didn't go up ten per cent or twenty per cent. It went up double.

Mr. Deans: Sounds like *profkeering*.

Mr. Moog: Well, by somebody.

Mr. Deans: We maybe need some standards set.

Mr. Moog: Those are things which are just never discussed and this is why I quite often get irritated as you can appreciate. I've got something to ~~refer~~ *refer* which is more than difficult.

Mr. Shibley: I want to return to the letter of October 18 ~~see~~.

Mr. Deans: Well, Mr. Shibley, before you leave the August 24th letter, I want to clearly understand some of the things that are in it. You have it there, Mr. Moog, articles (a), (b), (c), (d), with the exception of "royalties", (e) *and* (f) - down to (f) are all matters which would be a matter of record from the books of Canada Square. Is that correct? That payments to contractors, costs of labour and services, costs of materials, supplies, etc., taxes, rentals, licences, permits, duties, excises, assessments, architectural fees, engineering consultants, accounting, legal, interest during construction, general administrative expenses; are all matters which would be easily accounted for through a look at the books of Canada Square?

Mr. Moog: I wouldn't necessarily say easily, but they could be *accounted for*.

Mr. Deans: Well, let me take the word "easily" out then.

Those are all matters of record though. They are all a matter of the on-going record, that under (g) 3, 4 and 5 are already part of items (d) and (e); that number three, royalties, are a part of item (d).

Mr. Moog: Yes.

Mr. Deans: Fees for architectural services are a part of Item (d) and interest is a part of Item (e). So that the only two matters that are ~~in (a)~~ which were not already accounted for in (a) to (g) or (a) to (f) are the 10 per cent of the cost of the building for overhead and the 10 per cent of the cost of the building for construction profit?

Mr. Moog: I suppose that's true.

Mr. Deans: I think it is true. Well, Mr. Genest shakes his head negatively. And I - other -

Mr. Genest: Well I - you know we are *constructing* a document now, I think it is legitimate for me to interject.

Mr. Deans: ~~incredible~~ *Absolutely*.

Mr. Genest: As I read it, Mr. Deans, the taxes, the royalties in (d) are not the same as the royalties we are talking about in (g) at all. These are royalties payable to Moog for Moog's own ^{part} - the royalties in (d) are royalties paid to other people.

Mr. Deans: No, I don't see that that's said at all. It just simply says "royalties" and just as it says in (e), if I might draw your attention, "interest during construction on interim construction loans", Item (g)(5) is interest during construction. They have just simply ~~and~~ set out the rate on all interim construction loans to the extent not previously included, so that ...

M.R.

Mr. Genest: Regardless of whether ~~he~~ pays it or not.

Mr. Deans: All right. This is what I'm trying to get at though, that those matters are in effect taken care of. That - you may be right in regardless of whether he pays them or not.

Mr. Genest: That's right.

Mr. Deans: Except that ~~on the other hand~~

Mr. Walker: And for my next act.

d Mr. Genest: ~~Mr. Genest~~ Divers~~ionary~~ tactics.

Mr. Walker: Would you repeat your question please?

Mr. Deans: I knew that these questions had force, but I didn't expect them to bowl him over.

Mr. Shibley: That's what you call bowling over the opposition.

Mr. Deans: It shows how unstable they are at the butt.

Mr. Walker: We don't have as much lead.

Mr. Deans: Perhaps it's because they are weighed down by big heads. Now, ~~and~~

Mr. Walker: I think we'll call it quits.

Mr. Deans: All right.

Mr. Shibley: I want two copies of that transcript.

Mr. Deans: You want the practice, no doubt.

(g) (5), why would you have interest on interim construction loans if the money wasn't ever used or paid?

H-1824 to follow

Deans
(Mr. ~~Shinkley~~)

H-1824-1

E.M.

~~on interim construction loans if the money wasn't even used or~~
~~paid~~ Why would that be there? I want to understand what "5"
means. "Interest during construction at the rate of 15 per cent
per annum on all interim construction loans to the extent not
previously included." Surely all interest ^{on} construction ~~in~~ loans
would come under interest during construction on interim con-
struction loans.

Mr. Moog: It depends, Mr. Deans, if we use our own
company funds. We may not ~~borrow~~.

Mr. Deans: I see. So what you are saying is that
you want to draw interest on moneys used by the company?

Mr. Moog: That's right. *Whether we borrow* →

Mr. Deans: That is all I want to understand.

Mr. Moog: *or outside,*
Inside ~~that~~ that makes no difference,
does it?

Mr. Deans: Okay, that's fine. *What* I am getting
at then is this, that the royalties, I don't quite understand
the royalty part of it but as far as the fees for architectural
services are concerned is that matter then contained in (d)
basically? What I am trying to find out is what in fact
that means ~~in~~ whether it is a lot of money, whether it is a
little bit of money, whether it was likely to be used or otherwise.

Mr. Moog: It means that if we have our own money
we think that money is entitled to interest. If we have our own
architects, we believe those architects are entitled to earn
a fee. And if we have royalties, which are reasonable royalties,
on patents we own we believe that also there is an amount
applicable to those. That is really what it is.

Mr. Deans: Why would you spell out fees for
architectural services in addition to general and administrative

(Mr. Deans)

H-1824-2

E.M.

expenses and all other costs of construction of the building. Surely the fees for your own in-house architects would be included in all other costs of construction of the building.

Mr. Moog: No, they are not.

Mr. Deans: They're not?

Mr. Moog: They're separate.

Mr. Deans: They're separate.

Mr. Moog: A separate account.

Mr. Deans: Okay, thank you.

Mr. Allan: Mr. Chairman, I find it very hard to realize the relevance of what we are discussing. We are discussing a draft agreement which was never executed, and the agreement that was executed bears no relevance to this one. I am wondering if, in the interest of trying to get ahead, we should be spending our time on this sort of thing.

Mr. Chairman: Well, thanks, I think Mr. Shibley is just about through with this portion of it but if any of ~~the~~ the other members ---

Mr. Bullbrook: I want to say that I would ^{like} ~~like~~ to agree but I see an extreme amount of relevance ~~to~~ I ~~think~~ ^{think} Mr. Shibley's problem, if I ~~may~~ ^{may} say so, is that - I don't know whether you ~~have~~ have all the documentation that supports the negotiation, which led up to the ultimate resolution of the problem, if there was one. If you have, I am sure that you are going to get on with it; if you haven't, then we have to deal with what we have. But this witness has told us that at no time, as I understand it, Mr. Moog, did you ever contemplate opening your books to Hydro. And I find it very difficult if to understand ~~how~~ you never contemplated opening your books to Hydro, how you were going to support the proposal that you made

(Mr. Bullbrook)

in this letter of August 24.

Mr. Moog: That proposal wasn't accepted, Mr.

Bullbrook.

Mr. Bullbrook: That doesn't make any difference; that begs the question. You made the proposal. Had Hydro made the proposal, then that type of response, Mr. Moog, is quite valid. Okay? It isn't Hydro that made this proposal, it is your corporation that made ~~this~~ this proposal. It is inherent in this proposal that you disclose your costs. So that I do think it is relevant. We eventually have to make an assessment of everything, and it ~~is~~ is difficult for me, and I want you to know this, Mr. Moog, I find it most difficult to understand the very definite position that you take in connection with disclosure when it would appear that on August 24th of 1972 you didn't take that position.

Mr. Finlayson: Mr. Chairman, if you will point out ~~that~~ at the bottom that those amounts are to be certified by the building architect, there is nothing in here which says that these particular figures have to be substantiated by making Canada Square books available to Hydro.

Mr. Bullbrook: Well then, ~~do~~ do I understand that ~~you were contemplating that Hydro would pay you 10 per cent of the cost of the building for overhead based on your own~~

(Tape 1825 follows)



(Mr. Bullbrook)

you were contemplating that Hydro would pay you 10 per cent of the costs of the building for overhead, based on your own in-house architects report as to what the costs actually were? You see the architect's function in a normal contractual situation, is a two-fold responsibility. It is just not a one way street. Mr. Finlayson, you help me here. You are probably much more knowledgeable than I in connection with matters of this nature. I understood the ~~architect's~~ architect's responsibility was to see to the appropriate carrying out of the terms of the plans and ^(appendages) specifications ~~attached~~ to the contract, and if he were to have any obligation in connection with certifying costs, it was a two-fold obligation.

Mr. Finlayson: Well, there is no question about that. Ordinarily, the architect is selected by the owner, and the architect supervises the construction of the building and certifies if it is a cost plus contract or whatever type of contract it is, just what has gone into the building from time to time; but I think what Mr. Moog is trying to point out, and certainly what my friends from Hydro are pointing out, that it would be very unlikely that this particular offer would be accepted in the form that it was. I mean, the more you analyse it, the more unlikely it is, I would think, that Hydro would have accepted this proposal. As you point out yourself, it isn't very much protection to Ontario Hydro if the building architect who was selected turns out to be Mr. Candy and Mr. Candy is the one ~~that~~ who certifies the various costs.

Mr. Ganest:

~~Mr. Cooper~~ You mean Mr. Cooper.

Mr. Finlayson: I am sorry, Mr. Cooper.

Mr. Bullbrook: We are going full circle, Mr.

Finlayson, and either direct it to you through the chairman or to Mr. ~~Moog~~ Moog; the ~~more~~ essential question is that somebody has to certify the costs, right? And in certifying the cost, he has to make disclosure of those costs to Hydro.

Mr. Finlayson: No, he doesn't.

Mr. Walker: Mr. Chairman, I agree entirely with what Mr. Allan is saying here and disagree with what Mr. Bullbrook is saying. It seems to me that the final draft that ~~becomes~~ becomes the actual contract is the only one of great relevance here. I don't really care if Mr. Moog made all kinds of promises in this August 24th letter. At best it is open to two interpretations and maybe more as to what really is meant in it, and even if Mr. Moog agreed to open his books here, if this was rejected by Hydro, surely the relevance is at that point destroyed and really we should be giving only consideration to the matters relating to what went into the actual contract rather than these purely wispy matters. These are drafts that were destroyed along the way.

Mr. Bullbrook: Well our terms of reference relate to all matters relating to the contract and I --

Mr. Walker: Well, we could find out what he had for breakfast too. I think it is useless.

Mr. Bullbrook: I can't resist that type of argument. I don't think I want to tell you that what he had for ~~breakfast~~ breakfast does relate to the contract. I am inclined to think the letter of August 24th relates to the contract.

Mr. Chairman: It may have some bearing on the final intent. If the final terms were ambiguous in any way, maybe the discussions and ~~negotiations~~ negotiations leading up to the final terms and the intent of the parties leading to the final documents can be looked at. Now, I think Mr. Moog is telling us that the final terms were not ambiguous, that the appraiser looks at it and it is up to the appraiser to ~~decide~~ decide which of these items a, b, c, d, and so on, were to be taken into consideration. Now, that's the problem that I have, is that a reasonable interpretation to put on it or not.

Mr. Shibley.

Mr. Renwick: Mr. Chairman, if I may just -- I don't understand the August 24 letter in the way in which it was put before us. As I take it, there were two items to

(Mr. Renwick)

be considered here, that is the cost or value certified by the building architect or the total value of the building as established by an independent appraiser, and it is to be done for the purpose of the last ~~para~~ paragraph on page two, which is to provide for a reduction in the rental rate.

I take it from what Mr. Finlayson has said and from what Mr. McCallum and Mr. Genest have said and from what

~~Mr. Genest has said that in no way under this document~~

(H-1826 to follow)

(Mr. Renwick)

Mr. Moog has said that in no way under this document could there have been a reduction of rental. Is that the reason it was rejected?

Mr. Genest: No. The reason it was rejected is that it was interpreted if we had signed it we were going Mr. Moog a blank cheque.

Mr. Shibley: It's another ~~~

Mr. Genest: Royalties - the items in (g) - it was an unreasonable agreement. That's the way Hydro regarded it. I think it could be summed up ~~~

Mr. Renwick: No, let me try and clarify then my problem. Let's - let me for the moment exclude the itemization of items (a) to (g). In other words, the calculation part of the operation. Then you had a formula which was to be cost or value, certified by the building architect, of the usable office space contained in the building, or the total value of the building as established by an independent appraiser.

In other words, the building architect was to certify the cost or value on that formula, but he also had to ~~have~~ have an independent appraiser to do it. Is that correct?

Mr. Genest: No, he had to get value from an independent appraiser and I would then certify the cost and Mr. - Canada Square would get the best of both worlds. If the value was below \$34, then they could go to cost. And cost had to include arbitrary items, whether he spent them or not.

Mr. Renwick: Well, I understand you could disagree on the itemization because in a draft letter a person would throw in the kitchen sink.

Mr. Genest: I sum this up by Napoleon's statement "Nothing dared, nothing gained." and I think that is what Mr. Moog was trying to do.

Mr. Renwick: But again I want to ~~~

Mr. Deans: Look what happened to him.

7-35 - 7:40 p.m.
M.R.

Mr. Renwick: Again, I come back to Mr. Bullbrook's point, that he - that this indicated a proposal that cost was to be a consideration in arriving at this matter, at this figure.

And the ultimate result and this is the point where I see the relevance of it, the ultimate - the result was that you simply ruled out cost and were prepared to go on appraised value.

Mr. McCallum: No, but Mr. Renwick, there is a very real difference. You see, the ultimate one that you are looking at fails to use the words before the execution and delivery of the lease. When someone earlier used the words "blank cheque" either way you construe this document, you have got a blank cheque, and when we came to that conclusion, we didn't like it. (a). Under costs where they have got such things as royalties unspecified ...

Mr. Renwick: Right. I agree with that.

Mr. McCallum: (e) under the other point. So it just wasn't satisfactory and away we went off on another series of discussions.

Mr. Chairman: But Mr. Genest, is it fair to say now that you don't know which of these items the appraiser is going to have to take into consideration?

Mr. Genest: I know.

Mr. Chairman: Can you tell us which ones the appraiser will take into consideration of the new agreement?

Mr. McCallum: Mr. Chairman, what you are talking about is not the document that has been signed. Number One, Mr. Renwick has been directing our attention to a document which Mr. Moog keeps saying was for openers sent over to Hydro to see how they would react but it was never signed, as I understand it.

Mr. Chairman: All right. Now under ...

Mr. McCallum: Either by him or by Hydro.

Mr. Chairman: All right. Under the document that has been signed, can somebody tell - Mr. Genest or Mr. McCallum -

(Mr. Chairman)

which items (a) to (g)5 does the appraiser look at?

Mr. Shibley: Ask Mr. Moog.

Mr. Chairman: Well, I don't care whether my answer comes from Mr. Moog or from ---

Mr. Allan: Mr. Chairman, I think - at least, I am in the dark completely as to the procedure that an appraiser follows in appraising a building of this kind. And I think it would be very helpful to this committee if we could have some witness who could -- you know, appraising is a science. It's not as much of a science as a judgement, I think, and I think it would be very helpful to me anyway, as one of the uninformed members of the committee in this regard, if we knew what we were talking about by that phrase that is in the contract that was signed.

Mr. Chairman: Well, that was the answer I was trying to get from Mr. Genest. Now you say we should be getting that from the appraiser, do you?

Mr. Allan: I'm not sure that he's such an expert on appraisals.

Mr. Chairman: Well, you know we were commissioned to look at the final contract and you are saying that really nobody can

HH-1827u to follow

(Mr. Chairman)

~~Look, you know we were commissioned to look at the final contract~~
~~and you are saying that really nobody can~~ there are not ~~that~~ ^{too}
 many people that can tell us what the final contract says.

Mr. Shibley: Well, Mr. Chairman, if I may interject, I think what we are doing here is as follows: We are trying to ascertain firstly whether the agreement for an abatement of rent is at all meaningful from the point of view of Hydro or whether it is just a wash, because Hydro have said that if these items are included it would be a wash. There is no question that the agreement in that respect would be meaningless, because it is very easy with all these items being included to get up to a price of \$34 ~~per~~ per square foot. In addition, we are interested in the question because if all these items are included, then a building could be constructed at a cost of far less than \$34, ~~and~~ encumbered to the extent of \$45 million and the developer entitled to pocket the difference, all quite legitimately but nevertheless this is so. So what I was attempting to do through this document, which seemed to delineate or enumerate what was in the developer's mind as being included in "appraised value," would be to find out whether that's still his interpretation or not because as counsel for Hydro has said, that's where there may yet be a lawsuit, and if we ~~don't~~ report on this and don't know what are the items that are ~~to~~ included in "appraised value," then we are left completely in the dark as to ^{whether} Hydro got a meaningful provision in that respect or not and whether the builder can actually borrow beyond the limits that we intend or understand Hydro intended as a result of using this type of phraseology.

Now, the only way, or one of the best ways, of understanding the meaning of words and after all it is the meaning to the parties to the agreement which counts -- it doesn't matter what I understand or anyone ~~else~~ else understands -- it is important what Hydro understood and Canada Square. Now, if they agree for example that a profit element is to enter ~~into~~ into the appraisal, fine that's it. If they agree

(Mr. Shibley)

that royalty is to form no part of it, ~~fixx~~ fine, that's it, But if they are in disagreement in that respect then they are not going to be able to get an appraisal that is acceptable to both sides because if the appraiser includes royalty, Hydro will challenge it and vice versa and they will be into a lawsuit.

What I am trying to find out at the moment is what is the understanding of Canada Square respecting these items. If Mr. Moog says that he is going to contend with the appraiser that all of these items should be taken into account, then we know at least that's his position. Now, are you?

Mr. Moog: I haven't said that at all, Mr.

Shibley.

Mr. Shibley: Well, which of them are you intending to ~~my~~

Mr. Moog: I am not going to detail this. I am going to rely on a competent appraiser. I think I made that point quite clear ~~long~~

Mr. Shibley: Well, are you not going to --

Mr. Moog: ~~now~~ and I don't think there is a big secret about making an appraisal on a building.

Mr. Shibley: No, no, but, Mr. Moog, please, Are you intending to make representations as you are entitled to do to the appraiser that in computing the cost he should have regard for the unique features of your patented items and an allowance should be made in that respect? Just take that as an item.

Mr. Finlayson: Mr. Chairman, I really think that this is most unfair. The building is only in the course of construction. I don't know what problems are going to arise between now and when it is completed but surely this witness shouldn't be asked what are you going to do if this happens or that happens. I presume he is going to put the best face on his position, whatever it is, and ---

Mr. k Chairman: Mr. Finlayson, I think the question is entirely reasonable and this is where we get into our problems.

(Mr. kChairman)

Mr. Shibley has just outlined the law as I understand it. ~~Yaw~~
Now if you have a different attitude or different viewpoint on it,
I will be pleased to hear it, but if you get into dispute as to
what these things mean, then the intent of the parties may become
important if the document doesn't speak on the face of it. ~~say~~

~~A~~ As far as I am concerned I would be interested in knowing what
of these items the appraiser is entitled to look at. Now, we
have simply asked Mr. Moog what, in his opinion, of these items
does he think the appraiser is entitled to look at.

Mr. Renwick: Mr. Chairman, could I just ~~say that~~ ~~say~~

~~say that~~ the aspect that Mr. Allan drew
attention to is one which certainly appeals to me. It seems to
me, and I must say with some diffidence I disagree with Mr. ~~Genest~~
Genest, that the parties can sort of ^{say} ~~between~~ themselves, ~~say~~
Well, these are the relevant factors, ~~say~~ you value these and only
these and come up with a value. ^{say} I think the expert has a
responsibility to make certain that all relevant factors with
respect ~~to~~ to value are taken into account. Now, there may
~~be marginal argumentative matters as to what are the~~
~~relevant~~

(H-1828 to follow)

(Mr. Renwick)

Now there may be marginal argumentative matters as to what are the relevant factors which would require a three-party discussion with the appraiser, Hydro and Canada Square, ~~then~~

Mr. Mead: Very minor items, I'm sure.

Mr. Genest: With respect, Mr. Renwick, I think you misunderstood my comment. Your question arose as to the, in the context of "Are we bound by the appraiser's determination without appeal to the courts?" and it was in that context that I made those remarks. I say that we are bound by his determination of the value of ^a certain items, but if we allege that he has made a mistake in including, in principle in including a certain item, overhead or profit ~~or~~ royalties I think perhaps is the best example here. ^{from} If he says ^{we are} ~~he is~~ entitled to take into account ^{possible} royalties out of one pocket into another, then I say we have the right to challenge that in court, it is not a conclusive ^{determination} ~~---~~

Mr. Renwick: I can well understand that there would be those marginal matters, but what Mr. Allan was saying and which appealed to me was that ~~xxx~~ if we could find out what an ~~xx~~ appraiser would consider, on the basis of these contract documents which have now been signed, what the relevant items are, then presumably we could also then ask Hydro and Canada Square whether or not they agree with those items. Now Mr. Shibley may have a different way of arriving at the same matter but I don't think - I think that at some point we have got to have an appraiser tell us what he considers to be relevant.

Mr. Shibley: Well, may I ask a question of both Hydro and Canada Square, Have they agreed that Chaffe, Mackenzie and Ray will be the appraiser? And if so I would be glad to ask them to ~~==~~ without getting involved in the appraisal as such ~~==~~ indicate what they think are the elements, or whether they think it is going to be necessary ^{to} ~~to~~ go back to the parties and

(Mr.Shibley)

ask them to define what appraised value means. But let's start with that. Is Chaffe,MacKenzie to be the appraiser?

Mr. Moog: We have not talked to Chaffe, MacKenzie as far as Canada Square is concerned. Now Hydro might have. We certainly consider them as a highly qualkfied firm.

Mr. Shibley: What I ~~would~~ would like to know is, would it embarrass anyone if I, as counsel to the committee, went to Chaffe, MacKenzie, tabled this document before them and said, "What interpretation do you put on those words for purposes of delineating or itemizing the items that are going to enter into your appraisal?" and let them ~~prepare~~ compile for me a statement in that respect?

Mr. Renwick: I believe that is what Mr. Allan was anxious to have.

Mr. Allan: That is what I had in mind.

Mr. Shibley: Is there any objection to my ---

Mr. Genest: Well, I'd like to - you see, if we were in a dispute with Mr. Moog, let's move forward ~~in~~ four years or three years, I suppose we would have a chance to make representation to Chaffe, MacKenzie. I don't want to reject that proposal, Mr. Shibley, I would just like overnight to think about it, and get instructions.

Mr. Shibley: Okay. The problem of the committee, if I may explain it, is simply this, ~~Without~~ Without our understanding as to the items that will enter into the meaning of ~~the~~ those words, we cannot make up our minds, the committee cannot, as to whether the agreement of October 18 is meaningful in terms of the contingency of an abatement, neither can we make up our minds whether ~~the~~ the agreement ~~is~~ contains a contingent result of the developer being entitled to borrow more than the, what

(Mr. Shibley)

we think of as the value of the building in the ~~xxx~~ sense that
on
he might expend \$40 million ~~on~~ the building including allowances
for various things that we think proper, but by including
royalties and other things get his evaluation up to \$45 million
and have the net difference.

For example, Mr. Moog, you had Mr. Cooper ~~who~~
who is your architect, but he is sort of in-house as well, I
think, is he not, write a letter of June 26 which I won't bother
to table, suggesting that the ~~xxx~~ royalty should be as much as
\$1.75 per square foot or \$2 million, over \$2 million, for this
building?

Mr. Moog: That would be an appropriate saving for
somebody using our type of air conditioning, converted into *rental*
~~repairs~~ *rates, yes.*

Mr. Shibley: I am talking about just the Hydro
building.

Mr. Moog: Yes.

Mr. Shibley: You would -- if royalty is allowed
you would be contending for over \$2 million under that item
alone.

Mr. Moog: Mr. Shibley, ---

~~Mr. Shibley: Just answer that question and stop.~~

(Tape 1829 follows)

~~(Mr. Shibley)~~

~~...if Royalty is allowed, you would be contending over
\$2 million that it is allowed.~~

~~Mr. Shibley: Mr. Shibley~~

Mr. Shibley: No, just answer that question,
and I'll go on.

Mr. Moog: Yes. I think if that is a proper value;
if it constitutes value, it should ~~be~~ be allowed; *if it doesn't
constitute value it should not be allowed*

Mr. Shibley: But whether the amount is correct
or not,

Mr. Moog: That's my point.

Mr. Shibley: - the importance of it is you see
is that if Royalty as an item is allowed, you are contending
for over \$2 million.

Mr. Moog: Mr. Shibley, I think any appraiser
would say whatever constitutes realistic value should be
allowed. What does not constitute realistic value should not
be allowed. And I think that's what a competent appraiser
would say. I think it's quite a simple procedure.

Mr. Chairman: But Mr. Moog, we, as a committee,
surely are entitled to know that too. One of the terms, the
main term of our commission, is to examine into the contract.

Mr. Moog: Right.

Mr. Chairman: And here is an element that you are
not ready to commit yourself on as to how it is appraised; here is
something that I've asked Mr. Genest and he hasn't given me an
answer on it; maybe ...

Mr. Genest: I haven't had a chance.

Mr. Chairman: Well, I thought you did have and I
thought you were avoiding it, but I'll come back to it then.
But, in any event, surely here is a contract with \$2 million
possibly in doubt and ...

Mr. Shibley: On one ~~two~~ item

Mr. Chairman: On one item, and the committee is not
able to reach a conclusion on it.

4.50 - 4.55 p.m.
M.R.

Mr. Moog: Mr. Chairman, that really is quite simple and I hope I haven't left the impression that I didn't want to make a statement to that. I think I have just made a statement, that if it constitutes value, that somebody else would have to pay that amount of money to obtain the same product, then it has to be part of the appraisal. If it doesn't constitute value, if it detracts from value, then naturally it ~~does not constitute~~ ^{does not constitute} part of the appraisal. It should be a disallowance. I think an appraiser will sort that out very easily, and I think Mr. Allan's suggestion is a very excellent one.

Mr. Chairman: Well, all right, maybe we have to get an appraiser, but this is what has ~~been~~ out of this sort of thing. Now, I had thought that maybe we could get a meeting of the minds between you ...

Mr. Moog: I think we have in principle a meeting, I hope, at least, we do.

Mr. Chairman: And - well, evidently not, because when we ask these questions there is ~~a~~ such a furor raised from your counsel that ~~we~~ ^{you} are not entitled to ~~this~~ ^{the} information.

Mr. Moog: Well, Mr. Chairman, with respect, if we go back to your letter dated August 24th, and then try to analyze it and then try to infer from that ~~letter~~ into our contract, then I think we are going to have problems, but if we look at our contract, I don't think we will have problems.

Mr. Chairman: Well, then, let me ask you, which of these items, as listed in the letter of the 24th of August, is the appraiser, in your mind, entitled to look at when he makes his appraisal?

Mr. Moog: I think the appraiser will use the cost approach and I think the appraiser will also ~~use~~ use the market approach, and both of those approaches I think should come very close to the value of the building.

Mr. Chairman: Well, that doesn't list (a) to (g) at all.

Mr. Walker: Mr. Chairman, shouldn't we look at the final contract and see what is included in there, and if the final contract lists certain items like *royalties, or permits,* or licences, or any of those, we should say - then we can *take them as included*

Mr. ~~Shilley~~ Shilley: All you've got is appraised value.

Mr. Deans: Can I ask a question? How ...

Mr. Chairman: Well, let me give Mr. Genest ...

Mr. Deans: No, let me ~~just~~ just ...

Mr. Chairman: I've got you all listed here and *Hodgson* ~~Mr. Hodgson~~ was waiting back, I haven't forgotten him and now Mr. Gaunt, are you putting your hand up too?

Mr. Deans: Wait a minute.

Mr. Chairman: Would Mr. Genest answer my question?

You said we didn't give you a chance to answer.

Mr. Deans: We are going to lose the value of ~~the~~ it. I want to get just the answer to the question that they answered ~~a~~ question to the answer that Mr. Moog gave.

Mr. Chairman: Well, all right.

Mr. Deans: Mr. Moog said the appraiser will use the cost approach and he will also the value approach. How will the appraiser use the cost approach if he doesn't have access to the cost?

Mr. Moog: Mr. Deans, the appraiser will know what an airconditioning system is worth; the appraiser will know what the ratio of ~~gross~~ gross to net in a building is worth; the appraiser will know what the rent would be worth in a building such as this, whether it is studded with columns or has relatively clear ~~span~~ span, whether it has a shape which is acceptable to a tenant or whether it hasn't; whether it has appeal or whether it hasn't and he will list all these items and put values to them.

Mr. Deans: I see.

Mr. Moog: *Really, it is quite a* simple procedure.

Mr. Deans: When you talk about cost then, you are not talking about actual cost but rather the appraisers view

4.50 - 4.55 p.m.
M.R.

(Mr. Deans)

of what they would cost to purchase.

Mr. Moog: What it would cost on the market.

What it would cost on the market, that is what I am talking about.

Mr. Renwick: But this is the problem, Mr. Chairman, ^{is} it can't possibly be market value or you would have said so.

Mr. Moog: Mr. Renwick, with respect, I think *really that* it is the value on the market. I don't really see any difference in that. I would be surprised if the appraiser would say something different.

Renwick:

Mr. ~~Renwick~~ Perhaps I could help Mr. Moog with my problem. I don't think it is simple. I think it's a very complex [?] problem to come up with a judgmental value ...

Mr. Moog: Oh no, not judgmental

Mr. Renwick: Judgmental, of the appraised value of a building when there is no market and where there is no cost factors available to the person who has to make the appraisal. Now, he has therefore got to use his expert ability to appraise that building. Now, let me repeat what I said. There is no market for that building.

Mr. Moog: Why? Why do you say that?

Mr. Bullbrook: One market!

~~Mr. Renwick: Because if there had been a market value for the building, it is the value that would~~

DT

Mr. Renwick: Because if there had been a market value for the building, that's the phrase that would have been used in the document.

Moog
Mr. Maag: I think that's ~~xxxxxxxx~~ semantics, with all respect.

Mr. Renwick: I am saying, with great respect, it is not semantics because Mr. Moog is indicating to us that somehow or other appraised value is about equal to value on the market and this is a simple matter. Now, it comes through to me that if it were a simple matter, we wouldn't be having this particular problem, because what we are saying is, there is no willing buyer on the marketplace for that building other than Hydro.

Mr. Moog: I wouldn't think that's necessarily so, Mr. Renwick.

All
Mr. Renwick: ~~XX~~ I am saying is that we are certainly not advertising the building for sale and taking the offers which are made and taking the best offer, because you are not going to have anybody respond to it.

Mr. Moog: No, but I think --

Mr. Renwick: No, just let me rule this out. I want to rule out that this is not market and it's not cost, that is in the sense that it is not cost to you because you are not going to disclose your cost. ~~xxxxxx~~ therefore it is an expert judgement of the value of that completed building on an appraisal basis to be done by experts and in my view that is a complex difficult problem.

Mr. Moog: Would it help you, Mr. Renwick, if the appraiser took the approach which ^{he} in all likelihood is going to take, that the value of the building ought to be what a company such as Hydro would have to pay on the open market to obtain that type of a building? That is the value of the building and that really is not difficult to assess.

Mr. Renwick: At the moment -- for the moment in any event I ~~don't~~ disagree with that. We are talking about the appraised value of an actual physical structure. I have gone on too long, but I wanted to express my problem, Mr. Chairman.

Mr. Chairman: Right. Now I have got Mr. Glen Hodgson, Mr. Gaunt and Mr. Newman but, Mr. Genest, are you prepared to answer my question?

Mr. Genest: If you still want me, Mr. Chairman.

Mr. Chairman: Well, I think it is important --

Mr. Genest: My view, Mr. Chairman, is that --

Mr. Chairman: I think we would be through this whole matter if we could get the answer from Hydro and from Mr. Moog. We could move on to something else.

Mr. Genest: Well, let me put it to you. My view, and I think Hydro's view, of the meaning of that expression is that the evaluation is going to be carried out on the basis of what it will cost Hydro to replace that building in accordance with what a reasonably competent contractor would charge. In other words, as far as we are concerned, the cost is going to be, -- at least the value is going to be what Hanscomb Roy tell us it would cost, because that's essentially what their report is. They don't have any access to Mr. Moog's books. What they say is this kind of tile, so much of this kind of tile costs so much to install and that's worth X dollars. You have all these costs and you will add to that what is a reasonable architect's fee and what is a reasonable interior financing cost and that will give us, as far as I am concerned, the appraised value of that building. It is its replacement cost, calculated in accordance with what it would cost on the market to erect that building, to have that building ready in 1975, what would it have cost us to go and get it done on our own by a contractor.

Mr. Chairman: But again, you haven't answered my question.

Mr. Genest: I am going to move on to your question, Mr. Chairman, which is based on the letter of August 24th, 1972, is that correct?

Mr. Chairman: Right.

Mr. Genest: And you want to start at (A)?

Mr. Chairman: Well, we could do, them all at

(Mr. Chairman)

once, if you will.

Mr. Genest: Well, I am going to tell you. (A) is all payments to contractors engaged in the construction. We would agree that that would be included, provided those costs are reasonable and in accordance with what is charged on the market. The same with (B) I insert that qualification.

Mr. Chairman: Right.

Mr. Genest: Because if Mr. Moog has blown a lot of money unwisely and he has put in something that anybody else could put in more cheaply, of the same quality, we won't pay him for that extravagance. So on (A) and (B) and (C) -- well, let's take those three. ~~Source that there should be included "and (D) and (E) that they are reasonable"~~

(H-1831 to follow)



(Mr. Genest)

H-1831-1

E.M.

~~Well, let's take those three.~~ I agree that they should be included provided that they are reasonable and provided they are in accordance with market values. On (d) ~~—~~

Mr. Bullbrook: Could I ~~ask~~ ask a question?

Mr. Genest: Yes.

Mr. Chairman: Let this be finished and then we will come back to it.

Mr. Genest: Well, I would like to make a general comment: ~~—~~ Again assuming that those costs are reasonable and in accordance with what is charged to the trade, I would agree that (d) is included.

Mr. Shibley: Including royalties?

Mr. Genest: Well, yes, sure, if you would insert a special kind of faucet and you have to pay a royalty to the patent owner ~~(p. 2-4)~~ not Mr. Moog but somebody else ~~(p. 3-4)~~ that is a reasonable item, certainly.

Mr. Renwick: How about the ones payable to Mr. Moog? His patents?

Mr. Genest: On his patents? ~~?~~ I won't answer that. I think that would depend on whether that ~~—~~ I am not knowledgeable enough in the trade to know whether or not someone who develops a special process ~~(p. 2-4)~~ if that is a reasonable charge in the eyes of the appraiser, I would think that would be a judgement for the appraiser to make, then perhaps " (e) Interest during construction on interim construction loans," again yes provided it is reasonable and in accordance with what is charged ~~the~~ to ~~contractors~~ contractors in the trade. (f), If that is meant to include ~~contractors~~ normal contractor's overhead charge, I would agree it would ~~be~~ included. ~~And I~~ ~~—~~ I think the last item I should deal with is a reasonable

(Mr. Genest)

contractor's profit; I would think that would have to be included.

Now, the figures in (g) are arbitrary and again are subject to the same ~~overhead~~ ^{*I don't know about the*} item of 10 per cent. I think 10 per cent is excessive for overhead, but I am not an expert.

~~_____~~ I would agree that the reasonable item for ~~overhead~~ overhead such as is incurred by contractors in the trade would be reasonable. Construction profit; I think that is excessive, the amount, but I agree that there should be an allowance, a normal reasonable allowance for construction profit. Royalties I commented on. Architectural fees, I have commented on.

(5), of course, is an arbitrary amount and I would think 15 per cent ~~is~~ is unreasonable.

Mr. Moog: Perhaps not today.

Mr. Genest: Perhaps not today, as Mr. Moog points out. It would have been unreasonable back a year ago.

Mr. Chairman: You are saying "reasonable" again there.

Mr. Genest: I am saying "reasonable" again there.

*D*oes that assist, Mr. Chairman?

Mr. Chairman: It does. Now, is Mr. Moog prepared to make ~~any~~ any comments, ^{to} say he agrees or disagrees?

Mr. Moog: Without interfering or without trying to interpret the agreement which we've got, which I think should supersede whatever is said ^{here} as Mr. Finlayson said, I certainly wouldn't want to quarrel with any of the statements Mr. Genest has made.

Mr. Walker: Except the amounts!

Mr. Chairman: Now, ~~say~~

Mr. R. G. Hodgson: Are you going to ~~ask~~ ^{let me ask my question} (inaudible)

Mr. Chairman: Yes, well, I was going to come back to Mr. Bullbrook because I thought ~~his~~ ^{his} question related to what Mr. Genest said.

Mr. Bullbrook: I wanted to ask Mr. Genest a question.

There is one item that we know completely, Mr. Genest, without apparently any equivocation at all, and that is that a developer arranging his financing, either by debenture or otherwise, it would have cost him approximately a million dollars. Now, it actually cost you \$100,000. I want to ask Mr. Genest whether he would think that an appraiser should appropriately take into consideration under one of those clauses the cost to a developer normally of a million dollars?

Mr. Genest: Absolutely not. We are not buying his financing. We are buying the building as it is; not financed, not leased, not anything, as it stands. And if that commission is ² ~~the~~ cost of financing the building, ~~a~~ that doesn't concern us.

Mr. Bullbrook: So that ~~the appraiser~~ if the appraiser took into consideration what normally any developer would have to pay in raising his financing, you would resist that ~~total~~ totally?

Mr. Genest: I would think the appraiser would be appraising it improperly if he did that because, you see, let me put this in a wider context; the danger with the expression "market value" which Mr. Benwick dwelt upon, if we just use that expression ^{without} any qualification, then an appraiser is immediately going to ~~say~~ say we are valuing an income ~~stream~~ stream. Here is a building that is rented to one of the finest covenants in the province and you could have an outhouse erected on that and it would ~~still be worth \$4 million because Hydro's covenant~~

(Tape 1832 follows)

(Mr. Genest)

~~and you could have an out-house erected on that and it would~~
still be worth \$44 million because Hydro is covenant to pay rent.

So that was the danger with the expression "market value".

Mr. Bullbrook: Well, I don't want to get in to market value.

Mr. Genest: Just to get in - no, but I'm leading to your question, Mr. Bullbrook. I wish I could see you behind all this equipment.

Mr. Bullbrook: I can hear you.

Mr. Genest: The cost of raising money for the permanent financing has nothing to do with the cost of erecting the building. The interim financing cost; *we have got something to do*

Mr. Bullbrook: It certainly has a great deal to do with the value of the building.

Mr. Allan: It is entirely the building.

Mr. Bullbrook: It certainly does.

Mr. Genest: We are not buying a mortgage.

Mr. Allan: The interim financing, Mr. Chairman, is just as much a part of the building as the bricks and mortar.

Mr. Bullbrook: And the arranging of the

Mr. Genest: Oh, I know, Mr. Allan

Mr. Allan: I didn't think Mr. Genest ever made a mistake.

Mr. Genest: Mr. Allan, I agree with you. The interim financing does. I say the cost of raising the permanent financing

Mr. Bullbrook: Oh, yes.

Mr. Genest: does not.

Mr. Bullbrook: Well, I want to say to you, sir, *that I'm* well, I shouldn't say I'm absolutely certain - but the appraiser has to take that into consideration. It's one of the most

(Mr. Bullbrook)

significant items that a developer has to look at, is his cost in arranging his financing and if he doesn't take that into his - and you see, it's the one item and that's why I dwell on it, it's the one item where we know that Mr. Moog, through his own talents and ability, has been able to save his corporation \$900,000, right?

And I say to you that an appraiser will not take that saving into consideration as far as Hydro is concerned. He quite legitimately will include the normal cost, be it ~~gave~~ to Don Smith, Y and R or anybody else in arranging their financing.

I'm vitally interested in the response of Mr. Genest.

Mr. Genest: Well, I just don't agree with you, Mr. Bullbrook.

Mr. Chairman: Mr. Glen Hodgson.

Mr. R.G. Hodgson: Mr. Moog, we have heard mentions of patents; are they owned by Canada Square or are they owned by you personally, or are they owned by associated companies of yours?

Mr. Moog: Without checking, I believe they are owned by associated companies.

Mr. R.G. Hodgson: In other words, there could well be inter-company transfers of royalty fees?

Mr. Moog: If there was to be a royalty paid, yes that's what it would be.

Mr. R.G. Hodgson: Are you perfectly able to give --- to waive those fees on your own?

Mr. Moog: Yes, I would be.

Mr. Shibley: Mr. Hodgson, there is a document, maybe it should be circulated, having to do with the claim for royalties. It's a letter from Mr. Cooper to Mr. Moog, dated June 26, 1973 and it relates to Hydro, that sets out their position in some reform and I'm not saying that Hydro agrees with it nor that Hydro's representatives agree with it but ooo

Mr. R.G. Hodgson: I think it is fairly pertinent if there is a question on royalties.

Mr. Shibley: Yes.

Mr. Chairman: ~~That's~~ Exhibit 210. We'll come back to you after you have had a look at the document, if you want, Mr. Hodgson. Mr. Gaunt.

Mr. Gaunt: Mr. Chairman, I ~~was~~ wanted to ask Mr. Moog about the \$34 figure and, of course, as he knows, and is stated in the letter of August 24th to which we have been referring, it states in the last paragraph ^{that} if the building architect certifies the cost at less than \$34, then an appropriate reduction in the rental rate payable to Ontario Hydro to Canada Square shall be given.

Now, the one thing that puzzles me about that \$34 figure, and you know we talked about appraised value and market value and so on, but in your proposal exhibit 61, which is your proposal to Ontario Hydro, based on the specifications you were given by Ontario Hydro, the figure of \$34 was the figure around which you submitted your proposal at that time. Was it not?


Mr. Moog: That is right.

Mr. Gaunt: Yes, so that at the time that you submitted your proposal on January 24th, 1972, you were using the \$34 per square foot figure as the construction cost.

Mr. Moog: As the total cost.

Mr. Gaunt: Yes, I'm sorry. As the total cost.

Mr. Moog: Right.

Mr. Gaunt: And now as the evidence has gone along today particularly, you have indicated that you are now prepared to assume some additional ~~cost~~ 

5.10 to 5.15 pm
DT

(Mr. Gaunt):

~~as the evidence has gone along today particularly, you may~~
~~indicated that you are now prepared to assume some additional~~
costs, incorporate various improvements and additions to the building which were not part of the original agreement, is that correct?

Mr. Moog: I think that is one of the ~~think~~ things Hydro wanted to buy from us is the willingness on our part to co-operate with them fully to create the building of a quality and suitability to Hydro and for that location, opposite the parliament building which would be superior to what they would get elsewhere; and we have just lived up to that agreement.

Mr. Gaunt: Well, really, what I am coming at is if your intent was that the total cost of the building at the time you signed the agreement was to be \$34.00 a square foot and you have now agreed to make certain improvements and to add certain additions to the building at your cost --

Mr. Moog: Yes.

Mr. Gaunt: -- does it follow, let me put it that way, that the final cost of the building will be over the \$34 figure?

Mr. Moog: I would at this moment think it would be, yes. I think the value of the building will be more than \$34. I have said it before and I am saying it again. I think that's quite correct to assume.

Mr. Gaunt: So that in the event that the appraiser doesn't agree and says -- no, the building is worth \$34 a square foot as constructed, given these improvements and additions, then at that point, would it be reasonable to assume that the \$34 figure initially undertaken by you was an inflated figure or inaccurate figure?

Mr. ~~Moog~~ Moog: No, I don't think so at all. I think we used it as a mark. I think we realized ^{that} ~~the~~ ^{type} of building, the type of quality Hydro should have and which should go on that particular site, as what an appraiser would call the proper improvement, not a semi-industrial building but a high quality first class office building, the best one we know how to build, would

(Mr. Moog)

be in that range of \$34. We used it as a benchmark, and we went ahead and did it and when Hydro afterwards came and said - how about this, or how about including that, how about changing the podium, how about a different ceiling system which we discussed right in the beginning, we went along with that. I think the value will easily show in excess of \$34. *I'm quite convinced of that*

Mr. Shibley: Mr. Gaunt, if you will permit me, I think it might help to clear this up in another way. Let's forget appraised value for the moment. We have some very precise figures on construction costs and at the moment we have Hanscomb Roy who say that inclusive of an allowance of \$2 million for contingencies, this building will have a construction cost of \$35, 500 ~~over~~ \$37,500,000. Eliminating the contingency allowance, they have a hard dollar evaluation of construction costs at the moment of \$35,500,000, right?

Mr. Moog: Right.

Mr. Shibley: Now, then, of that \$35,500,000, \$2 million at least represent extras that you have since the entering ^{into} of the contract, you have agreed to incorporate into this building without extra charge to Hydro.

Mr. Moog: That's correct.

Mr. Shibley: Had ~~u~~ you not included those extras in terms of the ceiling, we would be looking at an evaluation of construction costs, hard dollars, of \$33,500, is that correct? ~~\$~~ \$33,500,000, is that right?

Mr. Moog: We think that that's on the light side, but --

Mr. Shibley: Yes, all right.

Mr. Moog: -- following their figures --

Mr. Shibley: Yes, \$33,500,000. Now, in addition, Mr. Moog, there was a variation in the specifications in respect of candle power from 150 to 100 and in respect of point loading of the flooring from 150 - I am sorry, yes --

Mr. Moog: I don't think on the point loading that's

(Mr. Moog)

Mr. Shibley. I think ~~we made~~ that point clear.

Mr. Shibley: Well, my understanding --
well, in any event, you heard Mr. --

Mr. Moog: ~~Foot-~~ candles, I think we still are
installing 125 foot-candles at this moment. *We never went down*
to 100.

Mr. Shibley: Well, Mr. Tatham gave ev idence --
I have got you at 33 --

(H-1834 to follow)



Mr. Shibley:

Well, Mr. Tatham gave evidence—I've got you at \$33,500,000 without these new things that you are putting in. Mr. Tatham said that the adjustment in lighting would mean an additional downward adjustment of cost of \$1,100,000.

Mr. Moog: He is quite wrong because he doesn't take into consideration that we do instal 125 foot-candles, which we are.

Mr. Shibley: I see. Well, even eliminating that, I think Mr. Gaunt's point is that, ^{and} ~~forgetting~~ forgetting about any further advantage to you, if you start with a construction cost of \$33,500,000, ~~and your~~ your architectural fees and your interim financing costs are ratably diminished, are they not, because they are percentage factors?

Mr. Moog: To a degree, yes.

Mr. Shibley: Yes. So that if you start with \$33,500,000 and even if you added in, say, \$2 million for architectural and \$5 or \$6 million for interim financing, you are still only up to \$40 million or \$41 million. What Mr. Gaunt is really saying to you is, but for the circumstance of your including ^{this} ~~this~~ \$2 million worth of work that was not part of the specifications, ~~and the~~ the cost of this building would be nowhere near \$44 million.

Mr. Moog: I disagree. No, Mr. Shibley, I disagree.

Mr. Shibley: I think that is what he wants you to explain.

Mr. Moog: Yes, well, I would be glad to. I think again the big amount is the climatic system in the building and I think in the Hanscomb Roy report we just haven't been given the credit we ought to be given, ~~and~~ I think that happened

(Mr. Moog)

because of circumstances between Mr. Tamblyn himself and, I suppose, somebody from Hanscomb Roy who were told that they could have as good a system for less money. I think we have made it quite clear that that is impossible; you cannot buy quality and pay less. And that, I ^{think} ~~could~~ makes up several million dollars right there. I think the other item is the curtain wall and we will be ^{easily} ~~up~~ up to \$45 million.

Mr. Shibley: Well, Mr. ~~Moog~~ Moog, let us just deal with one thing at a time. With respect to the mechanical, even Hanscomb Roy have gone as far as allowing you \$6.50 a foot, which is still ~~---~~

Mr. Moog: ~~\$1,300,000~~ \$1,300,000 less than they should.

Mr. Shibley: All right. So now even allpwing that your figure was correct and ~~there~~ ^{there} is wrong, then you are still up to ~~---~~ \$35 million for the building, construction costs.

Mr. Moog: Well, I think we ought to start at the last figure of Hanscomb ~~Roy~~ Roy, which is \$37,500,000.

Mr. Shibley: No, I am starting at ~~the~~ their hard dollar cost because the other is contingency allowance. \$35 million would be your hard dollar cost.

Mr. Moog: My contingencies are very realistic; there are many things we haven't allowed anything for. Hanscomb Roy at one time said our carpentry work was \$7,000 or some ridiculous figure like that. We said, "How can you do that for \$7,000?". And then they find that maybe \$150,000 is ~~more~~ more realistic. It was a very unfair situation we were facing, and I think we have solved it quite neatly and I don't want this misinterpreted all the time, because it isn't that way.

Mr. Shibley: By the way, Mr. Moog, what were

(Mr. Shibley)

of
the items ~~that~~ set-off? Your counsel at the time said that when these changes in specifications as to candlepower were made - and I thought floor loading also - that there were offsetting items and I wondered what they were.

Mr. Moog: Well, I think a big item is the storage tank ~~which~~ we discussed earlier, which costs a fair amount of money. I think another item was that we did go for a more expensive curtain wall yet. There ^{were} ~~are~~ some other items I can't recall right now, but they ^{will more} ~~would more~~ than offset whatever ~~was~~ first of all, there ~~was~~ never that difference between ---

Mr. Shibley: But the storage tank I thought was included in the schedule.

Mr. Moog: It is now included but it wasn't in the beginning.

Mr. Shibley: How could it be an offsetting item in the sense ~~that~~ ^{it's} gave them a storage tank in return for the reduction in lighting when ~~it's~~ included in the costing?

Mr. Moog: I don't follow you.

Mr. Shibley: Well, there is \$300,000 ~~was~~

Mr. Moog: ~~It was one of the items we~~ agreed upon and ---

Mr. Shibley: But it is now included in the ~~break~~ breakdown of costs. It is not a wash but it is not part, it is included in the calculation.

Mr. Moog: Yes.

Mr. Shibley: \$300,000. So it is not offset. Should Hanscomb ~~and~~ Roy be told to eliminate that item for the watercooling system?

Mr. Moog: I don't quite follow what you are trying to get at.

Mr. Shibley: We earlier went over it, and one of the items in the breakdown of costs was the water reserve tank or whatever it was, \$300,000.

Mr. Moog: Please, let's try to reconstruct, maybe we have lost each other. You are saying that there were certain savings due to us?

Mr. Shibley: Well, I had understood that ~~the~~ Hydro after the contract

(Tape 1 2435 follows)

(Mr. Moog)

~~... saying that there were certain savings due to us.~~

Mr. Shibley: Well, I had understood that ~~when~~ Hydro, after the ~~contract was~~ developer was selected, changed the specifications and Mr. Tatham said that those changes represented a total downward saving in construction cost of \$1,300,000 that there were, on the other hand, offsetting items; that, in other words, Canada Square had allowed Hydro for certain additional items had made it up to Hydro, and I'd like to know what they are.

Mr. Moog: Well, first of all, I would like to take issue with \$1,300,000. That has never been a correct figure. We have never reduced our installed ~~handle~~^{power} to 100; we are installing at this moment 125, which we think is necessary. So that that figure is strictly in error. The point loading has never been changed because we are still installing what the agreement calls for.

If there was an offsetting, I think I know what you are referring to; maybe I can consult with Mr. Coles or somebody who knows what that item was.

~~Mr. Shibley: Well, I understand that the~~
~~figure that was given to me was \$1,300,000. I think~~
~~that was a mistake.~~
I just ^{have} to think about that, Mr. Shibley, but I know there were offsetting features. What they are, I just ~~know~~ have to ~~know~~

Mr. Shibley: Would you overnight ~~see~~

Mr. Moog: Yes.

Mr. Shibley: ~~You~~ look into that and check that out and just while I still have you for myself to examine: I noticed in Hanscomb Roy's three reports, the first time it had overhead and profit; the second one had overhead but no profit, the "profit" was blanked out; and I understood from them that ^{they} were supposed to but just mistakenly did not blank out "profit" in version three, so that ^{their} ~~their~~ understanding is that they were not to include it in their computation. But

(Mr. Shibley)

again, just so you can clear that up for us, am I now to understand that you did intend to have included in the appraisal a construction profit?

Mr. Moog: Mr. Shibley, we do not intend to influence the appraisal in any which way. I think that what Mr. Genest said, that there should be a profit included, ~~that~~ is quite reasonable.

Mr. Shibley: Well, I just want your answer.

Mr. Moog: Yes.

Mr. Shibley: Yes, okay.

Mr. Moog: I think there ought to be a profit.

Mr. Chairman: Mr. Gaunt, were you finished your line of questioning? ^{task} Mr. Shibley ~~was~~ over.

Mr. Gaunt: Yes.

Mr. Chairman: Now, finally I am back to you,

Mr. Newman; you have been very patient.

Mr. W. Newman: Well, I ~~was~~

Mr. Chairman: I said I'd go back to Mr. Hodgson on this letter. I was ...

Mr. R.G. Hodgson: I think I got the answer and that was that whoever holds the patents Mr. Moog was free to waive any fees in relation to ~~the~~ ^{them}. There ~~wouldn't~~ be inter-company transfers of fees. He had the full clearance, he didn't have to account to someone else, to his directors of another company, for the patent.

Mr. Moog: I ~~can~~ ^{could} do that if that was necessary.

Mr. R.G. Hodgson: Because I think when you come down to arguments about patents, you might well have some other directors who would say no to Mr. Moog, if he

~~Mr. Moog was not saying that~~
~~in complete~~ (didn't have the complete opportunity and control of the patent.

Mr. Moog: Mr. Hodgson, on that item, ~~that if~~ the appraiser ^{as} feels

~~that if there is value created, then I think there~~
ought to be a royalty.

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(Mr. Moog)

If he feels that we are not getting anything for this specific patent, then I don't think we ought to get it. It's really quite simple.

Mr. R.G. Hodgson: Well, I was just concerned that the patent may be held by one company ~~personally~~

Mr. Moog: No, there is no problem like that.

Mr. R.G. Hodgson: ~~and~~ and you are selling it to another.

Mr. Moog: No problem like that.

Mr. Chairman: Now, Mr. Newman.

Mr. Moog: All quite straightforward.

Mr. W. Newman: Mr. Chairman, most of my questions have been answered but one of the things that concerns me about all of these questions going on here today about costs and appraised value is the quality of the building. ~~With~~ With runaway inflation, I think this is a very important factor we should be considering. But what does concern me with the Hanscomb Roy report that we have here after consultation with you but they are hired by Ontario Hydro to be a watch-dog for them to keep an eye on the costs of the building ~~and~~ and I'm coming right down to the basic costs. ~~They~~ They line up with their version number three, which we are dealing with today, with a final figure of \$37.5 ^{million} and adding your architect's fees, legal fees, interim financing, ~~which~~ brings it to about ~~\$47,650,000~~ ^{\$47,650,000} ~~some~~ somewhere in that neighbourhood. After you ^{had} committed yourself - at least, you had committed yourself maybe previously but certainly to Mr. Shibley this morning, committed yourself to X-millions of dollars extra on the Hydro building, ~~I do really feel. I think I'm coming back to Mr. Gaunt's question, do you feel~~

(Mr. W. Newman)

H-1836-1

L.M.

~~the Hydro building~~ do you really feel - coming back to Mr. Gaunt's question - do you feel that your costs are definitely going to exceed the 44.5?

Mr. Moog: At this moment the way the economy goes, the way inflation is taking hold of things, I would certainly feel so, yes.

Mr. W. Newman: Then in the final analysis, when the building is finished then and under the terms of the contract, ^{than} you feel it is going to run more ~~than~~ this? If it ~~it~~ does run more than this, would you be prepared to show your costs to Hydro?

Mr. Moog: Well, Mr. Newman, we would like to keep our own counsel on that item, with all due respect. We think if we take a shellacking on this, I think we would like to do it quietly. I have often picked up the tab when we lost money and I have always ~~been~~ ^{fulfilled} my commitments and I can give you quite a long list of those where I picked up the tab when it didn't work out. And if this should be the case, I think we would just simply like to do it amongst ourselves.

Mr. W. Newman: All I WAS concerned about, Mr. Chairman, to Mr. Moog, was the fact that according to the figures we have now from Hanscomb Roy, and we add your other figures to it, we are running well over the total commitment. You are committed to anything over 44.5, is that correct?

Mr. Moog: That is right, *we are committed to*

Mr. W. Newman: *You are committed to!* Personal loss. Even if you are going to take a personal loss, you would rather keep it to yourself?

Mr. Moog: That is quite right. And there are many reasons why I wouldn't like to open books, there are tax

(Mr. Moog)

reasons, there are a lot of other considerations. Nor would I want to admit I took a loss.

Mr. Chairman: Mr. Shibley, you have entered this as a result of Mr. Glen Hodgson's questions? Any further comments on that?

Mr. Shibley: No, I didn't, I thought it would complete this. 210, is it?

Mr. Chairman: 210. Now, is there anything further you wish to do now, Mr. Shibley? I think we are back to you. My list of questioners has been exhausted.

Mr. Shibley: Yes, I want to talk to you about maintenance for this building if we can get on to another -- oh, one thing I meant to ask you, this agreement referable to the appraised value of the building, the appraisal for purposes of abatement but also appraisal for purposes of the limits on ~~mortgage~~ mortgage financing, is ~~a~~ subject of a separate letter agreement, that is correct?

Mr. Moog: That is right.

Mr. Shibley: Was a copy of this letter agreement provided to the institution which is to provide the permanent financing?

Mr. Moog: I believe so, Mr. Shibley, I am not quite sure but I believe so. *I think Mr. Bradshaw answered that question.*

Mr. Shibley: Are they to have any part in or participation in ~~the~~ terms of knowing what the appraised value is so that they might themselves be regulated as to how much money they want to advance against the building?

Mr. Moog: I think they are quite convinced it will cost us all of the amount talked about. I don't ~~know~~ know, Mr. Shibley.

Mr. Shibley: You've got to answer the question I've put to you.

Mr. Moog: Well, I can't tell you, I haven't ~~xxxxx~~ talked to these people myself at all.

Mr. Shibley: All right. Now then, I want to talk to you a little bit about maintenance. One of the things that ~~was~~ appeared in the Hanscomb Roy material was the installation of dual controls of certain of the electrical-mechanical equipment in the building.

Mr. Moog: Yes.

Mr. Shibley: And you mentioned in your opening statement that there was going to be a hookup free of charge to the computer centre at the Transamerica Building.

Mr. Moog: Right.

Mr. Shibley: Yonge and Eglinton. Is that correct?

Mr. Moog: Yes.

Mr. Shibley: Now then I take it by hooking up to the computer at Transamerica, that you thereby will save the cost of the personnel who would otherwise regulate the equipment in the Hydro building?

Mr. Moog: We hope to ~~maximize~~ as much as possible, yes, we have some 37,000 points on this computer installation at Canada Square and ---

Mr. Shibley: I don't think we need to go into it in detail but ~~my~~ my instructions are that you are likely to save the cost of employing as many as four men, being three shifts and one extra for holidays, etcetera, ~~for~~ four men of a high ~~quality~~ calibre, higher than a stationary engineer in terms of regulating the operations of the Hydro building. Is that correct?

Mr. Moog: Well, I haven't heard ~~of~~ that one before; I don't know where you get that information.

Mr. Shibley: Well, ---

Mr. Moog: ~~We~~ hope to save labour, ^{yes;} at the same
time just talking about labour ~~plaza~~ ^{with the} which Hydro more or less
~~and as a result, I think we have to employ for instance~~

(Tape 1837 follows)

5.30 to 5.35 pm
DT

(Mr. Moog)

~~just talking about labour with the plane which Hydro~~
asked us to build, I think we have to employ for instance at least two men, maybe three men, to keep it in shape, to do the landscaping, to do the window washing, to clean the domes, etc. You see that's all ~~and~~ ^{offsetting} ~~offsetting~~. You just can't say on that side you save. If we do, we want to save labour, of course we do, through computerization.

Mr. Shibley: Well, let's complete one thing at a time. The only thing I am trying to deal with at the moment is the saving in maintenance costs resulting from the hook-up to the computer at Transamerica which would be in the order of three to four --

Mr. Moog: I don't agree that it would be as high as that but I do believe we will save labour.

Mr. Shibley: You would have to have a man operating the equipment in Hydro.

Mr. Moog: Mr. Shibley, there will be sufficient men to operate the equipment to the best of its possibility. We also have a few problems again. Once we have talked ^{about} it, we should always have it in proper perspective. We are installing, for instance, this storage tank, a situation which has never been dealt with in this country which has a lot of very complicated mechanic baffling systems, etc., in there. We probably will for the first several years have to have ~~extra~~ extra staff of engineers just watching that particular one until it functions smoothly. Eventually ^{we} ~~again~~ hope to computerize it. These are all problems which we are at this moment facing.

Mr. Shibley: Mr. Moog, we can keep it shorter if you would just answer my questions. At the moment my instructions are ~~as~~ that by hooking up to the computer at Transamerica you will save one man, ~~that~~ three shifts and really it is more like four men, the salaried cost of four fairly expert people in the operations of the systems at Hydro. Is that not so?

Mr. Moog: I ~~must~~ agree that we will be saving wages. I will not agree that it will be that particular amount. I really don't know.

Mr. Shibley: All right. And in order to accomplish this, there are actually dual controls being installed in the Hydro building such that after 30 years if they want to go on their own independent way, they can do so. Is that not so?

Mr. Moog: That is news to me. I will be glad to check that. I have never heard of that one.

Mr. Shibley: And the capital cost of those dual controls are included in the mechanical electrical charges.

Mr. Moog: I don't think that that is that way, Mr. Shibley, but please let me check that out.

Mr. Shibley: Well, will you check that because that's my instruction from Hanscomb Roy, to that effect, that the capital cost of doing this --

Mr. Moog: I don't believe we spent extra money so that in 30 years, we will probably have much different equipment and computers anyway, ~~but~~ ^{that} we then built that into a building today. I don't really believe that that's so but I will check it.

Mr. Shibley: All right. Now then, still on the question of maintenance, you have incorporated a charge of \$1.45 as part of your proposal for maintenance. Is that right?

Mr. Moog: I believe that's so.

Mr. Shibley: I want to show you a memorandum. Did you discuss maintenance charges with Mr. Candy, prior to the meeting of the commission on July 19th?

Mr. Moog: It is possible but I can't recall.

Mr. Shibley: Well, I want to show you a memorandum dated July 18, 1972. Have you ever seen that memorandum?

Mr. Moog: ~~Remember~~ Yes.

Mr. Shibley: Who prepared it?

Mr. Moog: It looks like as if I did.

Mr. Shibley: Yes. I might tell you that this was part of the material produced to me by Mr. Bradshaw from his files.

(Mr. Shibley)

~~1838-12-12~~

I'd like to go over this memorandum with you.

Mr. Chairman: Make it Exhibit 211.

Mr. Shibley: You see, it starts off: "Meeting held today between K.H. Candy, of Hydro, G.W. Moong, with W.C. Coles. Other prices by regarding annual expenses, excepting business and realty taxes, range from \$1.25 to \$1.40 per square ~~foot~~ foot. Candy allows \$1.45 per square foot per annum for such expenses." ~~Now~~

Now, are we talking about the same \$1.45, Mr. Moog?

Mr. Moog: ~~Our \$1.45 was arrived at by our computer~~ ^{brother} going through a ~~number~~

Mr. Shibley: No, but we are still talking about maintenance costs.

Mr. Moog: Yes, we are talking about maintenance costs.

Mr. Shibley: So that whereas you were talking a range of \$1.25 to \$1.40, ~~we~~ — what does this mean: "Other prices by regarding? Are these prices from other sources or what does that mean? The first word there." "Other prices by — or "Prices by others," I am sorry. That's what it means: prices by others.

Does that mean prices by other developers?

Mr. Moog: I couldn't tell you what that refers to. ~~It~~ is possible.

Mr. Shibley: I see; it is possible. And I gather you then ~~knew what others were indicating as a~~ range of \$1.25 to \$1.40, for maintenance. Is that correct? Is that correct?

Mr. Moog: That's what it must refer to.

Mr. Shibley: Yes, and that Mr. Candy was, however, prepared to go as high as \$1.45. Is that correct?

(Mr. Shibley)

That's more or less along the lines of the August 24 letter. Were you discussing the arrangements as per your August 24 letter with Mr. Candy on July 18?

Mr. Moog: I don't think Mr. Candy knew anything about that August 24 letter.

Mr. Shibley: In any event, you had engaged him upon discussion of how you would compute the \$34 per square foot, but decided that that kind of discussion should not form part of the material for consideration by the Commission. Isn't that so?

Mr. Moog: This memorandum seems to indicate that we had some discussion on it. What we discussed, I really don't know, ~~Mr. Shibley~~ Mr. Shibley.

Mr. Shibley: Well it's clear from the memorandum that somebody told you "prices by others" for maintenance was going to be \$1.25 to \$1.40; Mr. Candy's telling you how high he's prepared to go, and he and you are discussing how the \$34 evaluation should take place,

(1839 follows)

(Mr. Shibley)

.. ~~Mr. Cooper is telling me that he is prepared to go~~
~~and he, and you are discussing how the \$34 maintenance should~~
~~take place, all on a day preceding the date of the Hydro~~
meeting at which the contract with you was approved.

Isn't that so?

Mr. Moog: I don't know what happened at that time. We have discussed the \$34 question very often. We could have discussed it at that particular time. It's quite possible, Mr. Shibley, I just can't answer.

Mr. Shibley: Mr. Moog, I have to tell you that this document was neither produced to me by Hydro, nor was it produced to me by Canada Square. It came from the file of Mr. Bradshaw. Now, is there any reason why it wouldn't form part of your file?

Mr. Moog: *Well* Yes, it's probably a document I took down *when* ~~and~~ Mr. Bradshaw and I prepared the August 24th letter and that's why it is in his file rather than in my file.

Mr. Shibley: You say you don't have - you didn't have a copy of this in your file?

Mr. Moog: I don't have a copy of this, no.

Mr. Shibley: Does Mr. Cooper have a copy in his file?

Mr. Moog: I don't see why he should.

Mr. Shibley: I see. Well, I'm still concerned to know why there should have been agreement on the part of yourself and Candy that your allowance for maintenance should be \$1.45 just - I shouldn't say "just" - it's five cents a square foot, which is a meaningful sum of money above the highest of the limit of the range which was known at that time.

Mr. Moog: Mr. Shibley, it just depends what sort of maintenance you provide. You see, we are handling much more air with our equipment. We are building a building which ~~would~~ ~~we~~ we always said would be of highest quality and would have

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(Mr. Moog)

highest quality of maintenance. It just depends what you give for that amount of money.

And I suppose that that is why we asked to get an amount for maintenance which would enable us to do the job. That's just *that simple*.

Mr. Shibley: All right. And with respect to the \$34, why did you and Candy agree that you would not finalize the language at this moment to avoid questioning by the commission?

Mr. Moog: I am not sure that Mr. Candy agreed to anything on this. I think this is something which bounced around so often, this famous question about value of the building. I think it initially derived from the old building and we set it as a bench mark and we aimed at that and I don't know what Mr. Candy agreed to at that time at all, if anything.

Mr. Shibley: You see, we've been spending a few hours this afternoon trying to understand the language as to the \$34 and it appears from this memorandum that it was an agreement between you and Candy on the 18th of July that you should defer that to avoid questioning by the commission.

Mr. Moog: I can't help you to tell you what exactly happened on that day. I just remember that the \$34 question was always a critical one because we didn't have any plans, we didn't have any specs, we just intended to build a very good building, which Hydro certainly felt ought to cost them that amount and we also agreed with them, based on costs of our other buildings.

Mr. Shibley: Just still dealing with the net usable portion of this thinking at that time and it seems to have projected forward to August 24th at least. Net usable space would have the effect of assisting you in establishing the \$34 per square foot, easier than if you took the gross area, is that not so?

Mr. Moog: Depending on the efficiency of the building, that is correct.

M.R.

Mr. Shibley: Yes, so that at the time of this discussion with Mr. Candy, you were sufficiently concerned about establishing the value at \$34 by getting him to agree to compute that on the basis of net usable square footage?

Mr. Moog: That's what you pay rent on usable area or at least, rentable area, so I suppose that's how this came about.


Mr. Shibley: Well, let's for example say that in - let's say this building cost — I'm sorry, let's say this building had a net usable space of 1,200,000 square feet and the gross area is 1,400,000

Mr. Moog: One million three.

Mr. Shibley: One million three.

Mr. Moog: Right.

Mr. Shibley: By using one million two and dividing it into the cost of the building, you don't have to spend as much money on the cost of the building



H-1840 to follow

5.45 to 5.50 pm
DT

(Mr. Shibley)

~~into the rest of the building. You don't have to spend as much money on the rest of the building to get to your \$34 fee.~~

Mr. Moog: I agree with what you are saying, Mr. Shibley. It was ^{just} a matter of getting some elbow room at that time and we didn't know at all what we were dealing ~~under~~ ^{on}.

Mr. Shibley: Well, that's the point, Mr. Moog. As of July 18, 1972, you considered it sufficiently important to have that kind of elbow room.

Mr. Moog: Well, we tried to negotiate as hard as we could for our side and Mr. Candy did for his side.

Mr. Shibley: And when the agreement was ultimately made, the agreement of October 18, you gave yourself somewhat similar elbow room by allowing 75 ~~per~~ 100, or three-~~per~~ quarters of the allowance.

Mr. Moog: That is very wrong.

Mr. Shibley: All right.

Mr. Moog: And quite wrong. That ~~works in favor of~~ ^{Hydro, because that really should be 60% or thereabouts.}

Mr. Chairman: Any other questions from the members?

Mr. Bullbrook: I just wanted to ask a question if I may. The writing on page 2 of this memorandum, did you write both those things?

Mr. Moog: No, the second one appears to be mine, Mr. Bullbrook.

Mr. Bullbrook: Who wrote the first one?

Mr. Moog: And the first one - I am just trying to figure out whether it was Mr. Bradshaw or somebody else. I can't decipher it.

Mr. Bullbrook: Where was this prepared, this memorandum? In Mr. Bradshaw's office?

Mr. Moog: No, I think I ~~we~~ would have dictated that probably and taken it down to Mr. Bradshaw.

Mr. Bullbrook: Taken it down to him at that time. I take it then, in relating this memorandum with the letter of August 24th, the intention would be that your architect, Mr. Cor

(Mr. Bullbrook)

would state to the Hydro architect the total cost ~~and~~ ^{and} value.

That is, Mr. Cooper would --

Mr. Moog: He would certify the cost.

Mr. Bullbrook: To Mr. Candy?

Mr. Moog: I think that was at one time a consideration, yes. ~~I think~~ We at one time thought that that was a way of doing it. He was a certified architect and that wouldn't have been unreasonable to do.

Mr. Bullbrook: Could you -- I don't want to get into a great discussion again on the question of value, but at the time of this writing, cost and value, did you distinguish between cost and value at that time?

Mr. Moog: Well, ~~it deals with~~ ^{it deals with} cost calculations, so I suppose at that time we ~~didn't~~ didn't really distinguish that much.

Mr. Bullbrook: You equated cost and value at that time.

Mr. Moog: ~~Oh yes~~ *More or less.*

Mr. Bullbrook: Now, I want to be clear on this, recognizing that you can't give me your recollection of the actual things that went on with this meeting with Mr. Candy, but do I take it that from paragraph one you are able to substantiate that Mr. Candy did disclose to you --

Mr. Moog: No, I don't think so. I think those were prices which other people figured -- well, some developers ~~figure~~ ^{figure} it costs them to run buildings, to maintain buildings.

Mr. Bullbrook: To maintain buildings?

Mr. Moog: Yes.

Mr. Bullbrook: You are saying to us then that there was no disclosure by Mr. Candy as to the proposed maintenance costs by other developers involved in this project.

Mr. Moog: I couldn't recall that there was at all, Mr. Bullbrook.

Mr. Bullbrook: Well, I regard this as extremely important.

Mr. Moog: I can't recall what happened at that meeting any more. Honestly, I can't.

Mr. Bullbrook: Well then, I am wrong in saying what I just did and I apologize to you. It might well be that Mr. ~~Moog~~ Candy did disclose to you.

Mr. Moog: I can't recall ~~the~~ *what happened.*

Mr. Bullbrook: And you can't help us any further as far as your recollection is concerned as to why you wanted to avoid questioning on the 19th by the commission in connection with the \$34 ~~per~~ per square foot?

Mr. Moog: I don't know.

Mr. Bullbrook: What would be the purpose in attempting to avoid questioning by the commission?

Mr. Moog: You have to establish formulas. You have to establish an agreement. You have to go through a lot of work to ^{up} come with something concrete and I don't think that we were ready at that time.

Mr. Bullbrook: Are you saying it was premature at that ~~the~~ time to bring this to the attention of the commission?

Mr. Moog: I can't tell you.

Mr. Chairman: Mr. Hodgson.

Mr. Bullbrook: I'm not - just one moment. Mr. Candy wasn't present when you made this memorandum?

Mr. Moog: Oh, no.

Mr. Bullbrook: Thank you very much.

Mr. R. G. Hodgson: Mr. Moog, in that same paragraph that refers to avoid questioning by the commission it mentions the attached draft. Can you tell me what the attached draft was or do we have it as an exhibit?

Mr. Moog: ~~The second page.~~

(H-1841 to follow)

~~(Mr. R. G. Hodgson)~~

~~attached draft. Can you tell me what the attached draft was
or do we have it as an exhibit?~~

Mr. Shibley: That is the second page of the same document.

that, as I would gather ---

Mr. Moog: Perhaps not a very good one.

Mr. R. G. Hodgson: Another \$34 question.

Mr. Shibley: Oh, I 'm sorry, you're right.

Mr. R. G. Hodgson: I don't take that interpretation, I am sorry. Do you know what the attached draft was?

Mr. Moog: I believe that is so, that the second page was to ~~form~~ form the language ^{for} at least the start to be ---

Mr. R. G. Hodgson: If you notice the drafting of the sentence, it includes the justification for \$34 per square foot. The question in principle as per attached draft. I don't get that out of the second page.

Mr. Moog: Well, we tried to solve it by having our architects certify to Mr. Candy, as I read this, and then calculate on the usable square footage; that is quite correct.

Mr. R. - G. Hodgson: But you don't really know ^{is} what the attached draft ~~is~~ referred to here?

Mr. Moog: Well, Mr. Hodgson, I believe that that is it, I don't know of anything else.

Mr. R. G. Hodgson: The second page?

Mr. Moog: Yes. ~~Yes~~.

Mr. Chairman: Mr. Renwick?

Mr. Renwick: Mr. Chairman, I need Mr. Shibley's help. I don't understand the significance of paragraph 3 in

(Mr. Renwick)

that exhibit. I don't understand the significance of the apparently from this memorandum the agreement by Mr. Candy that \$34 per square foot cost calculation will be based on net usable ~~space~~ square footage of office space, rather than gross rentable area, including however such areas.

Mr. Shibley: Well, if I MAY HELP the witness and yourself, you remember - you see, there is a distinction between working it to \$34 a square foot or working it ~~at~~ to \$44,400,000. To get to \$34 per square foot, if, let us say the building had cost \$40 million, ^{but} ~~that~~ you were dividing by only \$1.1 million, you would have your \$34 per square foot. But if you were dividing by \$1.3 million, you might not, you would have only \$30 a square foot. So one method of the developer being able to attain his bench ~~mark~~ mark \$34, without actually incurring a cost of \$44 million would have been to use a lower divider, the lower divider being the net usable space as opposed to the gross floor area. If you took the gross floor area - after all, the submissions were made on the basis of \$34 per square foot gross floor area, but if you are computing the \$34 under your agreement on usable space, you ~~can~~ reduce the divisor and thereby attain the \$34 much more readily without expending as much money, if you follow me. Arithmetically it would be very easy to show you and what is happening here is what was projected forward into the August 24 document but which was not made the ultimate agreement. They adopted an appraised value wording that is so vague as to require all the discussion of today, but nevertheless it shows the progression of thinking, as of July 18 Candy appears by this memorandum to have agreed to use, not the formula as per the agreement, but rather a formula that would have enabled the

(Mr. Shiobley)

developer to establish his \$34 bench mark, using a meaningful smaller divisor.


Mr. Renwick: Then how does this relate back to Exhibit 61 in the original proposal of Canada Square in January of 1972?

Mr. Shibley: Would you be a little more precise as to the ---

Mr. Renwick: There is the \$34 figure in the Exhibit 61. Was that on the basis of gross rentable area?

Mr. Shibley: I think the sequence ^{went} ~~was~~ something like ~~this~~ this, that Hydro somewhere down the line decided, well, fine, you say the building is going to cost \$34 a foot, but one of the protections we want built in is that if it doesn't ~~cost~~ cost that, we want an abatement of rent and moreover we don't want you to be able to borrow any more money than that.

Mr. Renwick: Well, perhaps the question that is in my mind is not related to that problem. I can understand them wanting the rental adjustment.



(Tape 1842 follows)

(Mr. Renwick)

~~...can understand their making that general adjustment.~~

What concerns - the question that is in my mind is that the Canada Square proposal of January, which ultimately was the basis on which the commission accepted ~~the~~ Canada Square as the developer, was that based on the \$34 per ~~the~~ square foot cost calculation on the gross rentable area?

Mr. Shibley: You will have to ask the witness that, which is a very good question, Mr. Renwick. I don't know that you ^{were} ~~are~~ following, Mr. Moog?

Mr. Moog: I'm sorry, I wasn't listening. / ~~was~~ ---

Mr. Shibley: Mr. Renwick was asking is that when you made your submission and indicated in January that you were working on the basis of \$34 per square foot as the cost of the building, were you going on the basis of \$34 per usable foot or \$34 per gross foot?

Mr. Moog: I believe that was to be amended at a gross square footage.

Mr. Shibley: That was meant to be gross?

Mr. Moog: I believe so.

Mr. Shibley: So that this was a meaningful digression from what was part of your proposal when you and Candy, on the day before the commission, were agreeing to use usable square footage as the basis for the computation?

Mr. Moog: I'm not sure that - I haven't said - I hope I haven't said that Mr. Candy ever agreed to anything. These were the things which we negotiated on and were things which we proposed.

Mr. Shibley: I'm sorry, Mr. Moog, your memorandum says he has agreed that the \$34 per square foot calculation

^{Oh. Well,}
~~xxxxxxxxxxxx~~ Mr. Moog: Perhaps he did.

Mr. Shibley: [^] shall be based on net usable square footage." Now that would be a meaningful difference in terms from that set forth in the proposal which was under consideration by the commission.

M.R.

Mr. Moog: Mr. Shibley, there are many ~~many~~ risks involved in a job like this. When you negotiate, you negotiate naturally for your company, as Mr. Candy did for his. Obviously this was one of the things which didn't come off.

Mr. Shibley: Well, Mr. Moog, I think Mr. Renwick's concern, however, is that it was not brought to the attention of the commission, at the meeting held to decide who was to have this contract, ^{— I'm sorry,} ~~at~~ at the meeting held to decide that they would contract with your company, that there had been this meaningful change in the mode of computation of the \$34 per square foot.

Mr. Moog: In the end, it didn't make any difference because we didn't stipulate it in our contract.

Mr. Shibley: Mr. Moog, *that's not* —

Mr. Moog: ~~or~~ in our proposal of January 24th; we did not.

Mr. Shibley: Mr. Moog, not only was it not told to them but it was explicitly agreed between you and he — I'm talking about you and Mr. Candy — that the commission should not be told about it. It was not even an oversight. You specifically agreed with him that the commission should not be told about this material change.

Mr. Moog: Mr. Shibley, Mr. Bullbrook and I just went over the same matter and I think ^{he also} ~~they~~ explained that at that moment we just weren't ready to deal with it in that detail.

Mr. Shibley: Well, Mr. Moog, I'm trying to complete what Mr. Renwick is concerned about. Namely this: That when you submitted your proposal to Hydro, the commissioners were interpreting it as meaning that you were prepared to build them a building which cost \$34 per gross square foot, ~~for~~ \$44 million, whereas when you were discussing this with Candy the day before the approval of the contract, you are talking to him in terms where you could have built this building according to this formula for more like \$40 million.

Mr. Moog: If Hyd~~ro~~ would have accepted it I suppose that is so. I think ~~so~~.

~~Mr. Moog~~ Mr. Shibley: Yes.

Mr. Moog: I made it clear that we wanted
which we in the end
and fought for some elbow room ~~and~~ didn't get. ~~that~~

Mr. Shibley: And yet the commissioners of Hydro
were being ~~asked~~ asked to pass upon the contract being without
full and correct information as to what you and Candy intended
as to the computation of the \$34.

Mr. Moog: I can't comment on that, Mr. Shibley.

Mr. Renwick: Perhaps I - what the commission was
asked to do was to select a developer from what ostensibly
was supposed to have been a competitive proposal by different
developers. Now, wouldn't this be a most - if all - if the
other developers were submitting on a gross basis, surely
when the commission ~~was~~ was at the point in having to make that
selection, this amounts to a very substantial change on the
basis of which any comparison could possibly be made?

Mr. Shibley: Yes, Mr. Renwick, and it also goes to
the validity of the ~~proving~~ ^{Said} ~~which~~ took place, if I may ^{say} so.

Mr. Genest: Mr. Shibley, I have just shown this
document to Mr. Candy, who has never seen it before and his
evidence - he denies that he agreed that the \$34 cost calculation
shall be based on net

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Mr. Shibley: Yes.

Mr. Genest: ^{He's} Never seen it before and in his

evidence he denies that he agreed the \$34 cost calculation shall be based on net usable square footage and he also denies the second last paragraph, of that.

Mr. Renwick: Mr. Chairman...

Mr. Genest: I thought I should make that clear because ...

Mr. Renwick: Mr. Chairman, we won't want to draw any conclusions from this last few minutes. The point is that if there is evidence to be given, further evidence to be given by Mr. Candy, I'd like to have it right from Mr. Candy.

Mr. Genest: Oh, of course, but I thought the committee should know right away that those two items are disputed.

Mr. Chairman: Well, I was going to draw the attention of the committee, as you have done, that this is just a memorandum from Mr. Moog and that he was not definite although his memorandum was definite, his testimony today wasn't definite on the point and I expect we will be hearing further from Mr. Candy as to whether or not he agreed to this or not.

Shibley:
Mr. Brandshaw: Well, before we leave then, Mr. Moog, I'd like to ask you: Did you make this memorandum contemporaneously with its date, on or around July 18th?

Mr. Moog: I couldn't tell you, Mr. Shibley, whether I did or not, but obviously I made it prior to the meeting with Mr. Bradshaw because I did take it down to Mr. Brandshaw with me.

Mr. Shibley: Yes, and the meeting with Mr. Bradshaw

Mr. Moog: It was perhaps more hopeful thinking or wishful thinking than anything else. It's quite possible and I hope I haven't said today that Mr. Candy agreed with any of this. Perhaps I put this down to ...

Mr. Shibley: Mr. Moog, I'm just trying to establish the date on which you made the memorandum. It's dated July 18,

(Mr. Shibley)

would that indicate that you made that memorandum on that day?

Mr. Moog: That's possible that I did. I couldn't tell you today.

Mr. Shibley: So that it would be made on the very day on which you had your meeting with Mr. Candy?

Mr. Moog: Well, I couldn't tell you for sure that it was made on that date or within a few days thereafter.

Mr. Shibley: If you made it - you had a meeting with Candy on the 18th, didn't you?

Mr. Moog: Well, if that is ...

Mr. Shibley: It's in the diary.

Mr. Moog: That's right. All right, fine, yes.

Mr. Shibley: Yes, you had a meeting with im on the 18th...

Mr. Moog: Yes.

Mr. Shibley: And if you had made this memorandum on any day other than the 18th, would you not have given it the date on which you did the memorandum?

Mr. Moog: I couldn't tell you when I did ~~it~~ dictate it. I really couldn't. Perhaps it just referred to the meeting on the 18th.

Mr. Shibley: The point of the matter is, Mr. Moog, if you made it on the 18th, the very day you had the meeting with Mr. Moog, the content of this document is very likely to reflect what actually took place?

Mr. Moog: Perhaps a bit of wishful thinking on my side too, because the \$34 question was a very important question and I do not recall that Mr. Candy ever agreed with me on doing it one way or another.

Mr. Renwick: On the contemporaneous question, it's July 18th is up at the upper corner; July 18, 1972 and the heading is meeting held today between ...

Mr. Shibley: Yes, that's right.

Mr. Moog: Quite possible that that was dictated then.

Mr. Shibley: Yes.

Mr. Moog: But I wouldn't know whether I did in effect or not.

Mr. Shibley: And the ~~memorandum~~ memorandum - in the second last paragraph says; before tomorrow's meeting which again would indicate that the memorandum was made on the very day that you held your meeting with Mr. Candy. Is that not so?

Mr. Moog: Quite possible.

Mr. Chairman: Gentlemen, we will adjourn now until 9.00

Mr. Gaunt: Mr. Chairman, one question. Are we planning to stay within our time frame?

Mr. Chairman: I hope so, the 14th of ...

Mr. Renwick: I don't know what that phrase means.

An Hon. Member: He means adjourn today.

Mr. Chairman: What do you mean? On the end of the hearing?

Mr. W. Newman: On your schedule.

Mr. Chairman: I hope so.

Mr. Shibley: I'm not going to make any commitments whatsoever. None whatsoever.

Mr. Gaunt: Mr. Chairman, just one point of clarification. When Mr. Shibley was asking about the \$34 figure and the fact that you had to have more elbow room, with respect to the calculations, he asked something about \$ 75 over 100 and you said that's incorrect, it's more like 60 ...

Mr. Moog: That is right.

Mr. Gaunt: You completely lost me. What does that refer to?

Mr. Moog: That is the formula which finally was established in the October 18th letter whereby Hydro is to get a reduction, according to a 75 over 100 on the amount the

0.00 - 0.05 p.m.
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(Mr. Moog)

building would be valued below \$34 a foot. Now, we think that figure should not be 75, we think that figure ought to be less than 75; the reduction therefore ought to be less because off the ~~reduction~~ ^{reduced} amount which the \$4.84 per square foot \$1.45 or thereabouts is for maintenance and \$3.00 and something is for amortization and the amount necessary for amortization less *the cost* building is not 75 per cent but it is more in the 60 per cent bracket.

Mr. Gaunt: Oh, I see. So when you were gaining ...

Mr. Moog: So it is in favour to Hydro; ~~oh~~ no, it is in our fa_vour to put more money into the building so that the formula does not come into effect.

Mr. Gaunt: If that is so that while you were gaining more elbow room in respect to the ...

Mr. Moog: *To this one, they took it away on the*

ther side

Mr. Gaunt: *Of the net usable square footage.*

H-1844 to follow

6.05 to 6.07 pm
DT

(Mr. Gaunt)

~~of the net usable square footage?~~

Mr. Moog: Yes.

Mr. Gaunt: That was elbow room you were gaining.

Mr. Moog: Yes, and --

Mr. Gaunt: The elbow room which you lost was ~~on~~
the ~~calculation~~ ^{calculation} ~~expansion~~.

Mr. Moog: That's right.

Mr. Gaunt: ^{I understand. Okay.} That is fine. I didn't understand
that. M

Mr. Chairman: Any other questions? If not,
we ^{are} ~~will~~ adjourn until 10 a.m. tomorrow morning.

Mr. Finlayson: Do you want Mr. Moog back here at
~~tomorrow~~ 10 o'clock too?

Mr. Chairman: Oh, yes, definitely, we are sure!

The committee adjourned at 6.07 p.m.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
209.	1815-2	Draft letter - August 24, 1973 - From Canada Square Corp. Ltd. to Hydro-Electric Power Commission of Ontario - re Ontario Hydro head office building
210.	1832-3	Letter - June 26, 1973 - From K.R. Cooper to G.W. Moog, Canada Square Corp. Ltd. - re Royalty fee for patented 'Air Wall' system
211.	1838-1	Memo - July 18, 1972 - Prepared by G.W. Moog, Canada Square Corp. Ltd. re Meeting with K.H. Candy, Ontario Hydro.

A
#63

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, August 28, 1973

Morning session

1845-1872



Aug. 28/73
10:10 - 10:15 am.
M.S.

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:10 o'clock, a.m., in the members' board room.

Mr. Chairman: Ladies and gentlemen, I call the meeting to order. Mr. Shibley, I understand you are ready to proceed; so, Mr. Moor, if you would come forward?

Mr. Moor: (inaudible - not at microphone)

Mr. Chairman: Oh, ~~well~~ well, all right, yes. I didn't notice the photographer there. Mr. Shibley?

Mr. Shibley: Mr. Moor, yesterday we left off with what is Exhibit 211, being your memorandum of July 18, 1972. Having previously dealt with a first draft of an agreement dated August 25, 1972, prepared by Mr. Bradshaw, setting forth in that document, which is Exhibit 209, the proposed formula for the computation of the \$34 per square foot. I want next to refer the members of the committee and yourself to what is Exhibit 196 - the first draft submitted by Mr. Houser in response to the draft of Mr. Bradshaw. At page 18 of that draft, paragraph 44, is set forth what Mr. Houser had in mind respecting the evaluation that was to take place. And you'll notice in paragraph 44 it says:

"Following the completion of the construction of the Building, the Consulting Architect shall certify to the parties hereto~~s~~,...."

And I ask you to particularly note:

~~"the~~... the cost of the Building..."

The word "cost".

"....which shall be computed on the over-all construction including design, permit fees and impost charges necessary for its construction, and including the cost of the tunnel and the entrance to the University Avenue subway, but

(Mr. Shibley)

excluding all items provided or paid for by Ontario Hydro *.... In the event that the cost per square foot...

And again, it's "the cost per square foot"; it's not appraised value.

"... so certified by the Consulting Architect is less than \$34.00..... rental shall be reduced ~~and amended~~ ^{such as} And so on.

Now then, so that as at the time Mr. Houser drafted this document, September 15, that was his thinking. And then I ask the committee to look at Exhibit 89, which is a letter from Mr. Candy to Mr. Houser dated September 21, some six days after Mr. Houser's draft, and which letter also concerns itself with the wording for the agreement as to the \$34. And you will notice it starts off, Mr. Moog:

"The Developer has examined your draft of the above agreement and appears to be quite concerned about one particular item, which is the designation of the consulting architects to compile the cost of the building upon completion. He appears to be concerned that the obtaining of this information strictly by a bookkeeping operation would not present the true facts favourable to both parties. He discussed this matter with me by telephone and based on this discussion I suggest that the following be a better wording for the agreement, ~~which I have not read to them but which I feel would be acceptable.~~"

Tape H 1846 follows

(Mr. Shibley)

will be a considerable amount of money spent on the plaza which is partly for the benefit of commercial tenants and partly for the benefit of Ontario Hydro, which will require some separation of costs in this area. 4

I ask you to note particularly the following: "In suggesting a qualified cost consultant, I am thinking of Hanscomb Roy Associates, who were the cost consultants for the original design and on whose figures we determined the cost of the original design for purposes of arriving at the architect's fees, which were based on a percentage of the cost of the building. *

" The method I am suggesting would, I think, ~~xx~~ produce a true cost, some of which could be obtained directly from the developer and the balance being estimated by quantity surveying, etc., at the time of completion. It is not a difficult thing to appraise," and that's the first time in this letter that the word "appraise" is found.

Mr. Moog: That is the second time, I believe.

Mr. Shibley: All right, thank you. "As it is a very repetitive design on the floors above grade and much of the floors below grade, such as the finishing of all the commercial areas, are not included in any event. *

" If you would like to discuss this further, I would be glad to do so at your ~~am~~ convenience."

Now, Mr. Moog, I ask you now, in terms of the quoted portion of this letter from Candy to Mr. Hauser to be included in the agreement, did you and Candy settle this wording at that time?

Mr. Moog: I have never seen this letter before. I am not aware of having this settled this way at any time.

Mr. Shibley: ~~Apart from the~~

(H-1847 to follow)

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H-1847-1

~~(305-25074)~~

~~I am not aware of having this settled this way at any time.~~

Mr. Shibley: Apart from the letter, I am asking about the quoted portions of it. ^W It seems that Mr. Candy has set out in quoted part what he believed ^t what you and he would find acceptable. Although he says he had not read it to you, it struck me the way it was employed in this letter that it might have been wording which had been settled between you over the phone.

Mr. Moog: Not to my knowledge, it wasn't.

Mr. Shibley: I see. In any event, does this letter reflect what you were prepared to agree to as at September 21, 1972?

Mr. Moog: No.

Mr. Shibley: I see. I note particularly the references to Hanscomb Roy in that the ~~low~~ type of appraisal which Mr. Candy seems to be ~~is~~ reflecting as being his thinking emanating from discussions — I'm sorry, being his thinking, and bearing in mind he had ~~some~~ discussions with you on this subject at that time, that the kind of appraisal he had in mind was the very sort of thing that Hanscomb Roy would do, ^{main} ~~mainly~~, a cost type evaluation.

Mr. Moog: I don't recall having heard that name, Hanscomb Roy, prior to these meetings.

Mr. Shibley: I see. In the memorandum — in your own memorandum of July 18, 1972, which is exhibit 211, I checked back to compare the content of what is in the first paragraph, "prices by others regarding expenses" with what is in the analysis of the submissions, being exhibit 67, and I note in the appendix which follows page 21 in that ~~is~~ exhibit, where the breakout is set forth as to the maintenance cost proposed by other developers, that the following information is collated:

■ Ellis-Don, cost for management - \$1.23; Y and R - \$1.35:
Horizon - \$1.40, and then your own company at \$1.45. It seems to

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accord with the exception that Ellis-Don is \$1.23, not \$1.25, but the range of \$1.25 to \$1.40 compares with the actual range of other developers in their final submissions of \$1.23 to \$1.40. I would like to know, Mr. Moog, ~~you~~ when it was that that range was made known to you.

Mr. Moog: I don't think it has ever been made known to me by anybody specific. I think it is common in the industry that somebody bidding on a job, or wanting to get a job, comes in very low and afterwards adds all sorts of extras, or introduces, for instance, a wrong base year. There are all sorts of methods on how to get these things down and afterwards, charge. It is the same as the low borrowing bid business. It is really not a secret. I will give you one example; for instance, today, a very reputable bank, to my knowledge, is charging as much as \$2.40 for maintenance. It ranges all over the place.

Mr. Shibley: Mr. Moog, what I am driving at is that your information as to prices by other developers who were actually making submissions appears to be extremely precise, and in accord with what was in the submission, and I would like to know when you ascertained that information.

Mr. Moog: I have no recollection that I ascertained this information other than by my own guesses. It is more likely that I suggested, maybe to Mr. Candy, that other people would come in at considerably lower maintenance, but what is included and what is not included is the big question.

Mr. Shibley: Mr. Moog, your submission of January 24th-- it did go in on the 24th?

Mr. Moog: I believe so, yes.

Mr. Shibley: At what time of day did it go in on the 24th?

Mr. Moog: I wouldn't know.

Mr. Shibley: Was it late that day?

Mr. Moog: I have no idea, Mr. Shibley.

H-1847-3

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Mr. Shibley: I am going to make a very direct question of this to you, Mr. Moog. The proposal by Horixon was tabled with Hydro on ~~the~~ January 17th; ~~The proposal was~~

(H-1848 follows)

August 28, 1973
10.25-10.30 a.m.
M.F.

H - 1848 - 1

(Mr. Shibley)

~~on January 18th~~ the proposal by Y and R Properties was tabled with Hydro on January 20th. The proposal by Ellis-Don was tabled on January 24th, although they had been pressed to deliver theirs on the Friday preceding and were only granted the extension latterly.

I want to know whether you had conversation with Mr. Candy prior to the making of your submission wherein you were appraised of the amount of the maintenance charges claimed by the other developer?

Mr. Moog: Most definitely not.

Mr. Shibley: So that coming back to the July 18 memorandum where did you ascertain, or at what time did you ascertain and from what source did you ascertain, the information in that paragraph?

Mr. Moog: I think that's ~~is~~ purely guessing on our part. We know what our costs are, we know what other people would come in at, and I would think that that is a range a developer might use or might not use, depending on the type and quality of service you could provide.

Mr. Shibley: Mr. Moog, I want your answer to be clearly understood. You are saying that when you memoed yourself on July 18, "prices by others regarding annual expenses, excepting business and realty taxes, range from \$1.25 to \$1.40 per square foot", that that was sheer ~~guess~~ guessing on your part?

Mr. Moog: That was our guessing, yes, that is right.

Mr. Shibley: And it was your guessing on your part as to the range of maintenance costs claimed by the other developers who had made submissions for this project. Is that right?

Mr. Moog: ~~Well, maybe~~ ^{but that they were} by the ones who made submissions ~~on August~~, I don't know, but that would be what I would be guessing other developers would be coming in at.

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Mr. Shibley: Well other developers, by that whom do you mean?

Mr. Moog: Well whoever might be bidding. I didn't know who was bidding on this job.

Mr. Shibley: Well, all right, other developers bidding on the Hydro job is what you meant?

Mr. Moog: That's a possibility that they would come in it and ~~that~~ ^{that} a possibility that they would -----

Mr. Shibley: I see. And it is sheer coincidence then, that your guess of \$1.25 to \$1.40 compares with \$1.23 to \$1.40, which was the actual ~~was~~ range of the other three submissions?

Mr. Moog: We stuck with our \$1.45 throughout the whole deal.

Mr. Shibley: It is sheer coincidence as far as your evidence is concerned?

Mr. Moog: ^(I would think so.) As far as I know it is.

Mr. Shibley: I see.

Mr. Renwick: Mr. Chairman, may I ~~-----~~

Mr. Chairman: Mr. Renwick?

Mr. Renwick: I take it, Mr. Moog, that your answer to Mr. Shibley's question is that precisely the word "others", the opening word on your memorandum, does not refer to the three other developers who submitted proposals?

Mr. Moog: Mr. Renwick, I ~~have~~ ^{had} no idea how many other developers there were and who they were and what they would be doing.

Mr. Renwick: My question is that the opening part of your statement of July 18th, ~~and~~ ⁱⁿ exhibit 211, ~~said~~ ^{says}:

"Prices by others regarding annual expenses".

You are stating to the committee that they "others" referred to in that memorandum are not the three other persons who were making proposals?

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Mr. Moog: I am stating that whoever would make proposals would, in my opinion, come in in that price range as a possibility, that that would be a likely situation.

Mr. Renwick: But you are - let me ask another question. I take it from your ancillary comment to Mr. Shibley's question that as ~~that~~ ^{at} January 24th you did not know the name of any other developer who was submitting a proposal to Hydro?

Mr. Moog: To the best of my recollection I did not. I probably had some guesses who might be in the ballpark.

Mr. Renwick: I am not speaking about guesses because -----

Mr. Moog: I did not know, I did not know as fact, no.

Mr. Renwick: Now with respect to your submission of January 24th to Ontario Hydro, do you know the method by which that submission reached Hydro?

Mr. Moog: Perhaps Mr. Candy would ~~recall~~ ^{remember} that, I don't recall how it was delivered or whether it was sent by mail.

Mr. Renwick: You have no knowledge as to how it reached Ontario Hydro?

Mr. Moog: I would not know at this moment, no.

Mr. Renwick: And you have no record in Canada Square's ~~file as to the time at which~~

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(Mr. Renwick)

~~no record in Canada Square~~ files as to the time at which this proposal would go out of your office or the circumstances under which delivery would be made?

Mr. Moog: I don't know at ^{this} ~~the~~ moment, no.

Mr. Shibley: Could we ~~ask~~ ask -- I'm sorry.

Mr. Renwick: I take it you were the one who signed the proposal?

Mr. Moog: I believe so, yes.

Mr. Renwick: It looks like your signature. I can't tell but I THINK it is your signature.

Mr. Moog: I'm pretty sure it would be.

Mr. Renwick: What I can't understand is this wasn't an ordinary piece of correspondence which was going out, it was a proposal of, can I say, immense significance to Canada Square at that particular time.

Mr. Moog: Well, it was a proposal of significance, certainly. It was big.

Mr. Renwick: It was important?

Mr. Moog: Oh, yes, yes.

Mr. Renwick: And yet you don't know the way in which having signed it you then consigned it for delivery to Hydro, whether you sent it by cab or you sent it by a messenger or whether you delivered it yourself or whether you had one of your senior officials ~~ask~~ deliver it ---

Mr. Moog: I know one thing for sure, I did not deliver it myself. I could easily have had somebody deliver it, yes.

Mr. Renwick: But you do not recall how it was delivered?

Mr. Moog: I can only guess that I sent somebody down with it.

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Mr. Renwick: Is there any way within your organization that we could find out how it arrived at Hydro?

Mr. Moog: I could enquire of Mr. Coles when he comes; he knows. I would think it would have been delivered down to Hydro.

Mr. Renwick: Now coming back to Exhibit 211, in the context of that memorandum, which is headed "Meeting held today between K.H. Candy of Hydro and G.W. Moog with W.C. Coles also being present" the first line is "Prices by others regarding annual expenses range from \$1.25 to \$1.40. Candy allows \$1.45 per square foot for such expenses". I take it that of the information referred to in that single paragraph, the only information that you received from Mr. Candy was with respect to \$1.45 per square foot per annum for such expenses?

Mr. Moog: Mr. Renwick, I believe it is correct that we did quote \$1.45, quite a bit prior to this date, to Hydro. Mr. Candy knew that and that was the allowance he gave us.

Mr. Renwick: But that isn't what the memorandum says. The second sentence says that Candy allows \$1.45 per square foot per annum for such expenses. I take that to mean, followed by the note, CS ~~proposals~~ ^(Canada Square proposal), that that means that Mr. Candy advised you that he, in his thinking, was making such an allowance.

Mr. Moog: I think we made that quite clear to ~~him~~ ^{them} that our maintenance would be \$1.45 and I think Mr. Candy accepted it as such.

Mr. Renwick: Let me try it another way, Mr. Moog. Are you saying that ~~at~~ at the meeting on July 18th between Mr. Candy, yourself and Mr. Coles that there was no discussion of any kind with respect to the ~~price~~ ^{price} for these expenses?

Mr. Moog: I am not saying that either, Mr. Renwick, I don't know exactly what took place in that meeting. All I am

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(Mr. Moog)

saying is that our price was \$1.45. We haven't changed that
price, and that was Mr. Candy's allowance for it. (That is all) ~~that~~ I can
recall on what this is meant to say.

Mr. Renwick: Well, I need your help about it because
I take this memorandum of July the 18th to have been dictated ~~and~~
~~with this memorandum~~



(Tape 1850 follows)

H-1850-1

(Mr. Renwick)

~~to have been dictated~~ or written by you immediately following, or at least within the same business hours of July 18. And I take it to be a summary of the matters which were discussed at that meeting. Now in the absence of specific questions otherwise I have to accept this document as being an accurate record of what took place, unless specifically I can be told what is wrong about it.

Mr. Moog: Mr. Renwick, I often, ^{will} not often but sometimes, put certain thoughts down with which I am trying to construct a proposal or a proposition. Things which stick in my mind which are possibilities. I can't help you any more than that. This is what I aimed at. I know the \$34 question was always a problem. I was trying to resolve it just as much as obviously Mr. Candy was trying to resolve it. And that is all these things are - some thoughts like that. And I knew that our maintenance costs were \$1.45 and that is what Mr. Candy would have to allow, and that is what I put on that.

Mr. Renwick: Could I go on then, perhaps to help me clarify paragraph 1, could I go on to paragraph 2. Realty and business taxes he figures also at \$1.45 per square foot. He further calculates additional expenditures - for instance, broadloom, and so on to amount to 55 cents a square foot, in addition to the realty and business tax, bringing the total to \$2 per square foot.

Mr. Moog: These must be subjects...

Mr. Renwick: I don't know what the rest of it is. Now in the context of the memorandum written on the same day as that meeting was held, following that meeting, this would appear to me to record information which you had derived from Mr. Candy at that meeting.

Mr. Moog: It is likely that that has been discussed, Mr. Renwick, that is as far as I can go.

Mr. Renwick: I just want to say, subject to any further evidence that we have got, I have got to take this memorandum in the light of your answers as being that information provided at that meeting by Mr. Candy, which is now recorded in this memorandum made by you on that date. Thank you, Mr. Chairman.

H-1850-2

Mr. W. Newman: Mr. Chairman...

Mr. Chairman: Mr. Glen Hodgson; and then Mr. Deans, and then Mr. Newman.

Mr. R.G. Hodgson: Mr. Moog, the fourth paragraph in exhibit 211 brings into the document the services of Mr. James F. McCallum, Q.C.

Mr. Moog: Yes.

Mr. R.G. Hodgson: Did Mr. Candy tell you that Mr. McCallum was going to be the counsel?

Mr. Moog: I would believe that that is so. Yes.

Mr. R.G. Hodgson: Because I think the first indication that we have in documentation of Mr. McCallum's entry into the picture was the agenda #22 of July 19, which was a commission meeting.

Shibley:

Mr. Moog: Yes, that's correct, sir.

Mr. Moog: ~~Whether~~ *Now whether* he said that this was definitely so and that I cannot recall, but I would think that that is the first time I heard that name. I did not know Mr. McCallum. Apparently I had some dealing with him in our position before that.

Mr. Genest: I don't think that is right Mr. Chairman, I think June 29 there is a record of the retainer of Mr. McCallum.

Mr. Shibley: In any event, I think what Mr. Hodgson's question is directed to is that prior to the meeting of the commission at which the contract was approved on July 19, additional information was being disseminated by Mr. Candy ^{to} ~~that~~ Mr. Moog, namely the name of the outside counsel to be retained by Hydro to settle the final documentation. I think that is your point, isn't it?

Mr. R.G. Hodgson: That's right.

Mr. Chairman: Mr. Deans.

Mr. Deans: Mr. Chairman, I don't want to go on unnecessarily about the \$1.25 to \$1.40, but I want to put to Mr. Moog that this discussion took place for the purpose of ironing out what was to go before the commission the following day, to clearly understand what was to be placed before the commission on the day following this memorandum; it seems to me anyway. And I want to ask you to think about it for a moment. ~~was the point raised by Mr. Candy...~~
H-1851-1 follows

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(Mr. Deans)

~~... ..~~ Was the \$1.45 raised by Mr. Candy? Did Mr. Candy raise the matter of the \$1.45 in the context of it being one of the items that the commission may well question since it was higher than the competitors that ~~the competitors~~ who were also bidding on the job and may well be a question that the commission would want to pursue?

Mr. Moog: I can't recall that. All I would ^{presume} ~~guess~~ is that we took a stand and said if you want to have good maintenance that is the minimum we can do it for.

Mr. Deans: Yes, but ...

Mr. Moog: ^{If} Anybody else wants to come in for less, that's their business. We certainly couldn't do it because this - we gave them a proposal, or at least our opinion was always that that was a clean-cut and straightforward proposition without any escalation or anything up to the year when they take possession of the building. As it turned out, they even in later negotiations got that \$1.45 postponed to be escalated until 18 months, I believe, thereafter, which would bring us into 1977 and I want to have this clearly understood, that is our agreement.

In 1977, and I'm once more stating right now that at this moment a reputable bank, to my knowledge, is charging \$2.40 for that same service today so that I think we are belabouring a point which, in my opinion, if anything, is a big benefit to Hydro.

Mr. Deans: Yes, that's what we are trying to find out, isn't it?

Mr. Moog: Right.

Mr. Deans: At least that, among other things. And the reason I ask the question is that it would seem reasonable to me that on the eve of an important meeting ~~where~~ where the important matters were going to be discussed by the commission, that any matter which appeared to be perhaps a little high in

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(Mr. Deans)

Canada Square's proposal would be subject for discussion in order to determine whether or not it could be justified.

Mr. Moog: I didn't know what Mr. Candy intended when he came up. I just can't recall it.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Mr. Chairman, my question is directed to Mr. Shibley. I'm sure he can probably remember back in the testimony when we were talking maintenance cost, actual cost to Hydro at the present time. Somebody gave an estimate and then we asked for the figures and we did get them. Do you remember or recall what the figures were?

I believe it was much higher than these figures.

Mr. Shibley: Yes, but they said they were - I think Mr. Witbeck said they were somewhat higher because they included other things and there was an admixture, so to speak, of services. But we have, Mr. Newman, also a very precise breakdown of the cost of maintenance provided by, for example, Y and R Properties, of \$1.09 per square foot, being their current cost of maintenance.

And those figures form part of their work-up documents for the purposes of this project and only this project. I think Witbeck said that the reason there is memoranda to that effect, I think their costs are over \$2.00 but he defended Hydro's maintenance costs on the basis that they encompassed a lot of other things as well.

Now Mr. Moog, ~~yes~~

Mr. Allan: Mr. Chairman, I wonder if I could just have one matter clarified? Was there a definite understanding as to the date that this maintenance charge would become effective in the proposals in all proposals?

Mr. Shibley: Yes, there was a variation however, Mr. Allan and the Y and R proposal, I think they projected forward to 1974; in Canada Square's it was projected forward to 1975.

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Mr. Moog: 1977.

Mr. Shibley: Was it 1977?

Mr. Moog: Well, it works out to 1977 because on the final instance ~~we~~ we had to wait 18 months until there could be any escalation.

Mr. Shibley: Well, I thought that the proposal as such though was predicated, as I understood the figures, that however the documentation worked out that the base year for which these figures were provided were 1974, 1975 and then, in the case of Horizon, they used an even lower year.

Mr. Moog: I believe they used 1971 ~~---~~

Mr. Shibley: I don't think we are really interested at the moment in the question on the basis of comparing costs as much as the exchange of information that was taking place between one developer and a representative of Hydro on a date immediately preceding what was the key meeting of Hydro and the information that was being made available to Mr. Moog at that time.

~~I don't want the committee to get distracted from the real thrust of this examination.~~

H-1852 to follow

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(Mr. Shibley)

I don't want the committee to get distracted from the real thrust of this examination.

Mr. Bullbrook: We're not. The \$1.45, if I may, I don't want you to justify the \$1.45 to me, that isn't really the thrust of our questioning, Mr. Moog. The essential thrust of our questioning is to attempt to interpret what went on between yourself and Mr. Candy on July 18th, and I want to know, for example, did you know prior to July 18th that Mr. McCallum was going to be acting in connection with the negotiations on behalf of Hydro?

Mr. Moog: I don't recall that I did.

Mr. Bullbrook: Can you help me, why did Mr. Candy disclose that to you on that day?

Mr. Moog: I don't know why he did. If he did then I suppose it was just a piece of information for us to consider that we would have to content ourselves with some pretty good legal advice on the side of Hydro.

Mr. Bullbrook: So that you feel that disclosure at that time by Mr. Candy to you of the retention of Mr. McCallum, had to do with the possibility of Mr. McCallum involving himself in the negotiations that would take place?

Mr. Moog: That's what this memorandum obviously refers to.

Mr. Bullbrook: And you were evaluating Mr. McCallum in the context of having dealt with him previously?

Mr. Moog: I knew he was good from that experience I had because he got what he wanted.

Mr. Bullbrook: And as I read this - I must be ~~frank~~ frank with you in telling you - that as I read this, it conveys to me a meeting between the two of you whereby you are discussing the possibility of calculating the \$34 in a different fashion than the original proposal had contemplated, and that you were discussing with whom you would have to deal with respect

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(Mr. Bullbrook)

to that new avenue of ~~approach~~ approach - you and Mr. Candy - at that time?

Mr. Moog: I can't help you any further than trying to recollect what this memo is supposed to say and I think I have tried to do that as well as I can, Mr. Bullbrook.

Mr. Bullbrook: In essence, you were saying, as I understand it, if this memo does interpret what went on on July 18th, that you wouldn't finalize the language at that time to avoid questioning by the Commission; that you would eventually finalize it in a fashion so that the justification for the \$34 per square foot would be the stating, by your architect to Mr. Candy, of the total cost in value of the building?

Mr. Moog: That was one thought we had, but that was just one thought.

Mr. Bullbrook: And if that wasn't satisfactory there was the possibility of setting up a committee of two or three including Mr. Candy and Gordon Adamson and perhaps others, to interpret the specs and, I take it, the cost when you refer to the content of the building?

Mr. Moog: That was another thought, yes. There were many ways we tried to tackle that problem and if I could be allowed some time on that particular matter I would be very glad to go into some detail on it because I think it is very important.

Mr. Bullbrook: Well I don't want to in any way restrict you in your response, but I just wanted to get what I consider to be the feeling of that meeting, and I think I have gotten it from you now, what I think went on at the meeting. The discussion was, in effect, who would be involved in the negotiations with respect to the \$34 per square foot, and the methods available to justify the \$³⁴ per square foot.

Mr. Moog: I don't like that word "justify" at all, Mr. Bullbrook, because the thing goes much deeper, and if you will

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(Mr. Moog)

permit me then maybe I should go into what really is the essence of the \$34 question.

Mr. Bullbrook: Well I don't want to get into the validity of the \$34.

Mr. Moog: That's very important.

Mr. Bullbrook: Well it might be. I'm sure our counsel might get into it in the future, that isn't the point. The \$34 might well be quite justified, I don't want to be deflected at all. What I am interested in is the thrust, the general thrust, of your discussion on July 18th, and it seems to come through to me from this memorandum that that is the thrust. You were talking about who you were going to be dealing with; that is why McCallum's name came up.

Tape H - 1853 follows

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B.A.

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~~we are going to be dealing with. That is my understanding name~~

Mr. Chairman: Thank you, Mr. Bullbrook. Mr. Shibley.

Mr. Gaunt: Mr. Chairman, excuse me. Just on a matter of clarification. I notice on exhibit 211 there is a footnote. Do you know what that ~~my~~ says? It looks as though, something about the building architect will state to HEPC's architect the total cost and value. Is that what it says?

Mr. Shibley: ~~■~~ Do you want to explain that, Mr. Moog?

Mr. Moog: I think that ties in with what we discussed earlier, that one of our thoughts was that our building architect who would be in a position to know the cost, would state the cost ~~and value of the project.~~ the value of the ~~■~~ project.

~~Mr. Shibley:~~

Mr. Gaunt: So that in your view, cost and value at that point were synonymous.

Mr. Moog: We thought that they should be not far apart.

Mr. Shibley: Mr. Moog, I want to produce to you and to members of the committee, exhibit 85, dated July 19, 1972. This is a memorandum of Mr. Candy's wherein he outlines what he told the commission on the meeting it held on that day. You notice it starts: "I attended a commission meeting this morning with Jim McCallum, solicitor, at which time we discussed the proposal of Canada Square with the commission, recommending that we proceed with the writing of an ~~■~~ agreement between the commission and Canada Square for the construction of the new building and that the new building be proceeded ~~with~~ with on this basis". Then he talks about the fact that you have got your interim financing from the Bank of Montreal, he makes reference to all of your long term financing, likely to be Swiss, but ⁱⁿ the context of what we are now discussing, it says; "I also advised..." and he is talking about the advice he ~~gave~~ gave to the commission;

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(Mr. Shibley)

"I also advised that Canada Square have agreed that the building will be constructed at a minimum of \$34.00 per square foot, and a fixed rental of \$4.92 per ~~square~~ ^{square} foot per year, but if the final cost..." and I emphasize ^{the} word 'cost' - "if the final cost of the building is less than \$34.00 per square foot, the rent will be reduced to compensate." Then the rest of the letter is irrelevant to what I am about at this time, but you will notice, Mr. Moog, that in this memorandum of what Candy has told the commission on the day following his meeting with you, is that if the final cost of the building - I am not ¹ talking about face value - and he doesn't talk about the cost of the net usable space, he is talking about the cost of the building. It appears that what he reported to the commissioners at the time of their deliberations is that you had agreed: "Canada Square have agreed that if the final cost ~~is~~ is less than \$34.00 ~~the~~ the rent will be ~~reduced~~ reduced." Now, in the context of what he was reporting to the commission following his meeting with you, does his report to the commission accord with the discussions he had with you on the day before, July 18th?

Mr. Moog: Mr. Chairman, I think the time has come where I ought to be allowed a few minutes to explain what really has happened between Hydro and ourselves and what we tried to accomplish and achieve regarding the \$34.00 question. I think that would clean it up. I think it would make the committee understand it and I think it would be a great time saver.

Mr. Shibley: Go ahead, Mr. Moog.

Mr. Moog: All right. You see, Hydro had, in their mind, that they would like to ~~have~~ have the best building built which they could possibly imagine, which they figured would be at least \$34.00 a square foot. They did not want to assume any risk whatsoever. ~~They were looking for somebody to take all the risk over and~~

(H-1854 follows)

(Mr. Moog)

~~... did not want to assume any risk whatsoever.~~ They were looking for somebody to take all the risk over and produce to them a building which will cost them no more than a stipulated rental and they would not be called on for any extras and there would be no problems. They would get good maintenance and so on.

We have often said to Hydro, "Well, that's a very one-sided way of looking at things. What would happen if we do get strikes, if we do get delays, if inflation does run away as it has, if interest rates go up? Will you compensate us?" No! Yesterday, ~~another report~~ the papers again report, and somebody else gave them, of course, the chance to look in their books. Well, we would be glad, if that was the type of deal, to give them the chance to look at our books, too. Provided they would also pick up the slack if we overrun. That isn't what Hydro wanted. They wanted a no-risk, first-class deal. That was the thrust of their proposition to us.

We are caught in a very peculiar and precarious situation whereby we had to assume all that risk. And yet, also give them \$34 without any leeway whatsoever. Now, one thing which has to be clearly understood is that \$34 cost and cost of financing are directly related. Whatever you put into ~~bricks~~ bricks and mortar has to come out either in a lower interest rate or vice versa. And that is a very important consideration. We had no financial commitments at the time, we only had a good feeling. And what we impressed on Hydro when they asked us to build the building, ~~right~~ ^{right} way, we said, "Yes, you're quite right. From our point of view you ought to build it right away, too. Because what we think is going to happen in the economy is that very soon we will runaway inflation, we will have interest rates increasing like we've

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never seen before." Because it was quite obvious to us that what we looked at at that time, time-wise, was just the calm before the storm, before all hell broke loose. Which has broken loose since. Which nobody seems to understand. Nobody seems to sympathize with our ~~present~~ problem we've got.

But that is what we impressed upon Hydro. We said to them: "look, if we can get an agreement signed now, we think we can build you exactly the type of building you want, provided we can get going with it and provided we can have an agreement signed fast, with which we can button up our financing, and under which we can take advantage of at least some purchases of material and some commitments ~~as on before~~ ~~to~~ to build within the framework still available at that time, without having to charge you any overage whatsoever." This was the ~~basic~~ thrust of our proposition to them, and maybe some committee members can afterwards ask me questions if this isn't understood what I am trying to say.

What I am really saying is this, suppose we wouldn't have gotten our financing at 8 per cent? Suppose ~~the~~ Hydro would have done what some people ^{have} suggested and go out in an orthodox way and take whatever time it takes to get their competitive bids in. And, Mr. Shibley, I am recalling that you said in our meeting, when I said it would have taken them at least nine months; and I believe you said, ~~and~~ maybe 18 months or two years. Is that correct?

Mr. Shibley: Yes.

Mr. Moog: Right. Suppose they had done exactly that? Well, then I suggest right now that since we now have runaway inflation, since we now have interest rates which probably soon will be 12 per cent on first mortgages, that that building would have cost Hydro one-third more. One-third of \$45 million is \$15 million more. This is the sort of

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situation Hydro was facing. And, quite frankly, to have Hydro or us criticized for the excellent deal they made and we gave them, I find absolutely irritating. When we tried to arrive at a ~~situation~~ ^{situation} at that time to cope with an ~~big~~ immense problem where Hydro tried to push us and said; look, we want cost; they we asked them; well, what about if financing goes wild? What about is this happens? What about if inflation gets hold of it, will you then reimburse us? They said; Oh, no, no. It's a one-way deal, we can't propose that to the commission. We've got to have an absolute clear deal whereby you take all the risk. This is why we asked for some elbow-room, as I indicated yesterday. This is why \$34 and permanent financing are directly related and are of important consideration, even at this particular moment. This is how we arrived at it - we negotiated. I am sure that Mr. Candy wanted to get something different than what we wanted to ~~get~~ get and finally we solved our differences in the 200 page agreement. This is what happened. This is how this all came about.

There is nothing sinister or nothing peculiar about it at all.

Mr. Chairman; Mr. Moog, I can understand that. But were those the terms that were also proposed by the other three proposals?

Mr. Moog: No, they were not, Mr. Chairman. That's the point I am making. In the Y and R proposal it says they would like to have it re-opened in 10 years hence. In one of the other proposals they had a maintenance escalation in 1971. It's quite a difference when you have to put your money where your mouth is and you have to commit yourself as when you are talking. ~~We were, at that time, very much in the process of committing ourselves and we had~~

Tape H 1855 follows

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(Mr. Moog)

~~and when we were talking~~ We were at that time very much in the process of committing ourselves and we had to see where we could come out alive out of this proposition, because we were aware what would happen financially. We were aware what would happen in inflation. We were very much aware of that.

Mr. Chairman: How did you get all this knowledge as to ^{what} exactly Hydro wanted?

Mr. Moog: In discussions with Mr. Candy that I realized that they wanted a first class building. We knew what they were aiming at. We knew that they wanted a real good office building, not something else, and we were prepared to give them that type of building.

Mr. * Chairman: Well, do you know whether the other firms had similar discussions with Mr. Candy?

Mr. Moog: I have no idea what discussions took place

Mr. Chairman: Thank you, Mr. Moog. You had a question, I don't know whether you got the answer to your question, Mr. Shibley.

Mr. Shibley: That's the point. I found it an interesting statement, Mr. Moog. I take ~~that~~ the gist of your statement being that Hydro did the right thing to get on with the building at that particular time.

Mr. Moog: We had to find a method, there were no plans or specs.

Mr. Shibley: I understand that.

Mr. Moog: We had something which they said -- "We had to build." We didn't know what.

Mr. Chairman: Mr. Moog, we understand what you are saying and I think it is the impression that has been left with me, the correct impression. I don't think there is need to get heated on the subject.

Mr. Moog: Well, it is just --

Mr. Chairman: We understand the proposition that you are --

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I hope it is understood,

Mr. Moog: ~~Mr. Moog~~, Mr. Chairman.

Mr. Shibley: The difficulty that the committee faces, however, is that having decided to go on at that time, as ~~we~~ expeditiously as possible, and for all the reasons you gave, and having decided to do it by the developer route, what this committee has to determine is whether all of the developers were given equal opportunity to succeed in obtaining the project, so ~~that~~ all the things you say, Mr. Moog, may well be correct but the question remains, and that's really where we are at now, ^{just} so that you don't misunderstand the line of questioning we are pursuing, what I want to know from you now is, what were the terms upon which you were having your discussions with Mr. Candy and he, in turn, was reporting to the commission at the time that they were deciding which of the developers they should go forward with?

It is not a question of whether they should have gone forward with a developer, and at that time, as quickly as possible, but whether the commission were given information which was accurate as to your intentions at the time they selected Canada Square.

Now, I have referenced to you what Mr. Candy reported to the commission on July 9th as disclosed by exhibit 85.

Mr. W. Hodgson: Mr. Chairman.

Mr. Chairman: Yes, ~~Mr. Hodgson~~?

Mr. W. ~~Mr.~~ Hodgson: I think this is a very unfair question to ask Mr. Moog, whether the other developers had an equal chance the same as Mr. Moog.

Mr. Shibley: I didn't ask him that.

Mr. Chairman: I may have asked -- I asked questions whether he knew whether similar discussions --

Mr. W. Hodgson: Maybe you should be asking Hydro this question, *not Mr. Moog.*

Mr. Chairman: Well, I think we will, but I ~~was~~ was asking how he got his information and he said from Mr. Candy and I asked him whether he knew ^{whether} -- and I think he said "no", he didn't know that.

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Mr. Moog: Mr. Chairman, I tried to impress on Mr. Candy time and again that we were ready to step in, clear our decks of any other problems, and do a job, because we believed that Hydro needed that type of a company, not a company which had umpteen different jobs and had no financial connections, ^{with -- well,} the sort of qualities we had. This is what we tried to impress on Hydro. They needed us a ~~hell~~ hell of a lot more than we ever needed them. Let me make that absolutely clear.

Mr. W. Newman: Mr. Chairman.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Just so I get it clear what you just said. The way I understood you, you are trying to draw out the fact whether all other developers had an equal chance. Is that what you said?

Mr. Shibley: No, that's not what I said. I asked the witness, the question I put to the witness is simply this --
~~Mr. W. Newman:~~ ~~No, I'm sorry -- the committee. You were~~
~~an H&H member:~~ ~~you talked about the committee --~~
 you want the committee...
~~Mr. W. Shibley:~~ ~~No, no. You said the reason~~
~~the H&H member:~~ ~~why you are asking these~~
 questions...

Mr. Shibley: Oh, yes. I think the committee certainly has to decide whether there was true competition.
~~Mr. W. Newman:~~ ~~Why not ask~~ -- Hydro ~~whether he~~ this information...

Mr. * Shibley: Well, we asked Hydro many, many questions about that and tabled dozens of documents of Hydro that were produced by them as to that question, and I don't think it is necessary to go over them but I thought I covered it with Hydro quite exhaustively. Now, what I want to know from this witness however, is whether what Mr. Candy was reporting to the committee at the crucial decision-making meeting as to the adjustment of rental based on the \$34 cost was as per his memorandum of July 1961, did that accord with his understanding as per his discussions with Candy on the day before, July 18th?

Mr. Moog: I am sure that Mr. Candy always had a different approach. He wanted it every which way. He wanted to

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(Mr. Moog)

all his way and this is not what I agreed with.

Mr. Shibley: All right. That's all I wanted to
say. You say that when Mr. Candy says: "I also advise that *Canada*

67

(H-1856 to follow)

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~~XXXXXXXXXX~~

~~Mr. Moog: I did not agree in those terms ---~~

~~Mr. Shibley: All right; so Mr. Candy according to~~

~~your evidence was not making a correct representation to the~~

~~committee?~~

Mr. Moog: I did not agree in those terms ---

Mr. Shibley: All right; so Mr. Candy according to your evidence was not making a correct representation to the committee?

Mr. Moog: Well, whatever he took out of our conversation I don't know. I am not going to criticize him.

Mr. Shibley: Mr. Moog, that is all I wanted for you to say, whether it accorded with your discussions of the 18th or not, so we know whether the committee, commission I should say, was acting on information which was correct or not.

Mr. Moog: Mr. Shibley, he obviously took something different out of the discussions than I did.

Mr. Shibley: Well, Mr. Candy did another memorandum of July 19, 1972, which is Exhibit 83. Would you produce that to the witness, please?

Now, you will notice that it states:

" The major items of concern to the Commission are:

1. Capital cost of building per square foot
2. Rental cost per square foot
3. Amount of profit for developer"

and then he sets out the capital cost figures and he breaks that out. He then says "Rental cost" and he breaks that out, with a profit figure of 45 cents per square foot. Then he goes on on the next page, and this is the part that I want to direct your attention to, Mr. Moog, at the top of page 2:

"This profit will be 45¢ per square foot, per year,

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(Mr.Shibley)

"for 30 years. The builder, however, is entitled to a builder's profit on the construction of the building of say 3%, or \$1,200,000.00, which is 9¢ per square foot, leaving a residual profit of 36¢ per square foot x 1,200,000 = \$432,000.00 per year. "

" For this profit he takes the following risks: Increase in construction costs due to escalation; higher borrowing rates and inability to increase rent. In benefits, he has captive tenants, complete building rented at outset for life."

And then it goes on:

" In order to offset any criticism regarding the rental rate with respect to the cost of constructing the building, the developer has agreed to construct the building at a minimum cost of \$34.00 per square foot and if the costs work out to less than this amount, the rent will be reduced accordingly; but if the costs exceed \$34.00, the rent will not be increased."

Now then, just stopping at that point and going back to the top of page 2, it seems that what Mr. Candy was reporting to the commission is that you were not going to be allowed a builder's profit as part of the \$34.00 per square foot allowance but that you were going to realize your profits through the rental rate over the 30 years and that when ~~considering~~ considering your net profit out of rental they should have regard for the fact that ~~that~~ normally you would get a builder's profit which you were not getting in this case.

~~Do~~ Do you read that the same way as I read it or am I ~~am~~ misconstruing it?


Mr. Moog: I suppose that is what he says ~~there~~.

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Mr. Shibley: Yes. Now, yesterday both you and Mr. Genest agreed that in the computation of the \$34 appraised value, that a builder's profit was going, or is, to be allowed. That doesn't accord with what Mr. Candy appears to have reported to the Commission at the meeting of September 19.

Mr. Finlayson: Well, with respect, I don't think Mr. Moog said that, I think you were talking in hypothetical terms as to what matters should be included in the definition of appraised value and you went down a considerable list of items,



(Tape 1857 follows)

H-1857-1

(Mr. Finlayson)

of great value, and he went down a considerable list of items. But I don't recall Mr. Moog saying specifically that he would be claiming a builder's profit in the \$34 figure that we are talking about today.

Mr. Shibley: Well can we then get it straight because Mr. Genest did say that he thought it was a proper item as long as the amount was reasonable. And I must say that that took me by surprise because I had understood, I think even from earlier evidence of Mr. Moog, that a builder's profit was not intended as part of that evaluation. And Mr. Moog said I agree with all the items that Mr. Genest has outlined which included the builder's profit. But if we can straighten it out, Mr. Moog simply I'll ask you this way. In the computation of the \$34 per square foot, is there to be a builder's profit included as an item?

Mr. Moog: The answer is simple. If an appraiser looks at the building when it is finished; and I have to explain it that way because that is our contract, it is a priced value; and if we have done a good job and I think he will award us a profit. If we haven't done a good job then I don't think he would. If he would think that somebody else could have ~~has~~ built that building for less money, then obviously there wouldn't be a profit ~~in~~ in it. I think it is left to the appraiser to decide. I would think it is normal to have a profit in.

Mr. Shibley: Mr. Moog, I am talking now in the context of your having had discussion with Mr. Candy on July 18.

Mr. Moog: I don't think we ever discussed the profit.

Mr. Shibley: Well he reports to the commission on the following day that you are not going to ask for a builder's profit, a construction profit, your profit is wholly ^{built} in to the rental rate. Now you say it depends on the appraiser. That really doesn't answer my question, with great respect. And I ask you again; you can make it very easy and very simple for this committee if you will tell us now whether you are intending to claim as part of the \$34 evaluation a builder's profit. If you say you don't intend it to be included the appraiser has a clear term of reference.

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Mr. Moog: That's right; he has a clear term of reference.
The appraiser has a clear term of reference.

Mr. Shibley: Now tell us then, which is the term of reference that you believe he should follow.

Mr. Moog: Accepted by the method of appraising a building under the members of the American Institute of Real Estate Appraisers.

Mr. Shibley: Well normally they would allow a builder's profit.

Mr. Moog: I agree with you.

Mr. Shibley: Yes. And that is what bothers me in that unless you express ~~the~~ indicate to us that, even though this might be normal, that it is not intended to claim it in this case. And I am having regard for the Hanscomb Roy report where they blocked profit out, ~~and~~ I'm having regard for what is in Mr. Candy's statement to the commission when they met on July 19. That would solve the problem.

Mr. Moog: Mr. Shibley, I believe I answered all these questions yesterday, and I believe that those question really are hypothetical because I believe we will be overshooting the \$34 mark under any method you try to present.

Mr. Shibley: Mr. Moog you keep saying that and we will have to reach a conclusion as to that. But let's for example —

Mr. Moog: The conclusion will be in the document.

Mr. Shibley: You see at the moment we have Hanscomb Roy's report of hard dollar costs of \$35,500,000.

Mr. Moog: I believe it is \$37,500,000.

Mr. Shibley: No, that's is \$2 ^{million} contingencies.

Mr. Moog: Mr. Shibley; there are many contingencies in this job and I don't always ~~be~~ want to have these contingencies dealt with as if it is an add-on. It is not.

Mr. Shibley: Well in any event the point of the matter is, Mr. Moog, there is still the prospect ^{that} you may not reach \$34 million. I put it to you that one of the reasons that you have ~~be~~ agreed to incorporate \$2 million worth of not specified items into this building is that you recognized from the first report of Hanscomb and Roy that the cost was not going to reach \$34.

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Mr. Moog: With due respect, I don't think we have ever, at least I have not ever agreed to have any contingency put in there which Hanscomb Roy have not suggested themselves.

Mr. Shibley: Mr. Moog, the first report of Hanscomb Roy came down at \$33 million, including a \$3 million contingency allowance and Mr. Candy went to them and suggested that the price should be ~~increased~~ increased by including items of \$2 million that were ^{no} way part of the specification. You have gone along and given them Hydro, \$2 million or more of additional non specified items without extra charge to them.

Mr. Moog: Mr. Shibley, we would have done that under any circumstance. That was part of our understanding with Hydro. That is why they dealt with us. Don't you see that?

Mr. Shibley: Well, Mr. Moog, I remind you that the ~~the~~ ceiling which is the major part of that \$2 million is a specified item in the contract - a lay-in ceiling - and you have changed that voluntarily..

Mr. Finlayson: Mr. Chairman...

Mr. Shibley: May I finish my question, please?

Mr. Finlayson: No, you listen, I have not finished yet.

~~Live first call.~~

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M.F.

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~~(Mr. Shibley)~~

~~item in the contract, the lay-in ceiling, and you have changed
that voluntarily~~

~~Mr. Finlayson: Mr. Shibley?~~

~~Mr. Shibley: May I finish my question please?~~

Mr. Finlayson: No, you listen, I have got something to say. My friend cross-examined Mr. Moog in great detail on this yesterday, all about the ceiling and how it wasn't in the specs and how it was changed and what the amount of money was, and the witness answered every one of those questions and he answered them quite frankly.

Now this is just getting to be argumentative between Mr. Moog and Mr. Shibley.

Mr. Chairman: Well Mr. Finlayson, really he has asked him a question in regard to item 19 as to what the understanding of the Commission was and what Mr. Moog's understanding was, and it is at this point that Mr. Moog has hesitated or not answered the question directly, which has led on to this side issue. Now maybe if Mr. Moog will come back and answer the questions as to the building profit we would not be getting into this side issue of rehearing and what went on yesterday.

Mr. Shibley: Mr. Chairman, if I may speak to my friend's comment, the problem is this. Mr. Moog's answer in the ultimate is, "Oh well, it is academic, the building is going to cost more than \$34 in any event" and that is why I am led to cross-examine him in that respect, and I asked the question that you have included, without extra charge, two million dollars worth of items that ^{were} ~~are~~ not in the specification, and that is all part of bringing the cost up to \$34 per square foot.

Mr. Moog: Mr. Shibley, we have shown different ceiling samples to Mr. Candy in the very early meetings, we have told him that we would give him a very extraordinary ceiling.

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Mr. Shibley: Well, Mr. Moog, you are still not answering my question.

Mr. Moog: Well, but that is *something* which we turned up afterwards and I don't like ~~have~~ to have these insinuations thrown out all the time, ^{because} *^* That was part of the deal we made with them.

I see. Notwithstanding --
Mr. Shibley: It isn't part of the deal, Mr. Moog, because -----

Mr. Moog: That is what I told Mr. Candy Canada Square would do ^{that} any time they came up and they had a problem and they want something better, let me know what it is and we will do our best to do that.

Mr. Shibley: Mr. Moog, may I ask you a simple question? The ceiling is specified in the contract, isn't it?

Mr. Moog: That would be the minimum ceiling we would put in.

Mr. Shibley: It was specified?

Mr. Moog: The minimum ceiling we put in, yes.

Mr. Shibley: All right.

Mr. Moog: So we would have something to go by, because we had no specs.

Mr. Shibley: I will ask you a question for which I need a simple answer. When you volunteered to change that ceiling at your cost of over two million dollars, was that not part of your effort to get the costing of Hanscomb Roy closer to the \$34 per square foot figure?

Mr. Moog: Nothing to do with it. That ceiling situation was dealt with long before that, as the podium was, as many other things were.

Mr. Shibley: I gather that the discussion with Hanscomb Roy in agreement as to that ceiling took place when?

Mr. Moog: I am not sure when that took place but we certainly made them aware ~~of~~ the fact that there was a more

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(Mr. Moog)

We elaborate ceiling going in. ~~We~~ didn't want ~~to~~ have an appraisal on the ceiling which isn't going in. Why should we?

Mr. Shibley: I see. Well let's come back to this memorandum. Can you tell me now in language other than saying "I am going to leave that up to the appraiser," whether you intend a builder's profit to be included in the computation of the \$34? That is all I want to know.

Mr. Finlayson: Mr. Chairman, with great respect, what is wrong with Mr. Moog's answer that it is up to the appraiser to use standard appraisal methods in appraising this building? Now it isn't going to be Mr. Moog who appraises the building, it is going to be a qualified independent appraiser and I see nothing wrong with the simple answer he has given "he will use whatever methods are accepted by appraisers who are members of the American Appraisal Institute".

Mr. Chairman: All right. I think that is all right. I think he is suggesting in that that will, if the building is well constructed ^{and} ~~is~~ constructed -----

Mr. Moog: Quite right, Mr. Chairman, that is the point.

Mr. Shibley: All right. So then coming back to the exhibit, Mr. Moog, exhibit 83, when Mr. Candy - well, before I get to that - on your meeting of July 18, was that the understanding that Candy had?

Mr. Moog: I don't know what u^{nder}standing Mr. Candy took ^{out} of that meeting.

Mr. Shibley: Well did you discuss that with him?

Mr. Moog: Which? The profit?

Mr. Shibley: The profit, yes.

Mr. Moog: I don't recall that we discussed anything like that specifically.

Mr. Shibley: In any event what you have now said, when he was reporting to the Commission as per exhibit 83, page 2, does not accord with your present intention?

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M.R.

~~does not wish your present intention.~~

Mr. Moog: That's not the agreement we've got, no; obviously not.

Mr. Chairman: I think you're looking, Mr. Moog, sometimes, for difficulties in the answers where difficulties don't exist.

Mr. Moog: Well, I hope, Mr. Chairman.

Mr. Chairman: This was *the 19th of July* --

Mr. Moog: -- that is so; and I hope that I can explain to this committee our problems and what really the benefits of this deal are, but it's very difficult to do if the question always only looks at the negative sides.

Mr. Chairman: Well, I think you've made your position pretty strongly *with the committee*.

Mr. Moog: The risk we are carrying is absolutely horrendous.

Mr. Chairman: And we appreciate that, Mr. Moog.

Mr. Moog: Do you really?

Mr. Chairman: Yes, we do. And -- well, certainly I do as a member and I think *to speak for others* --

Mr. Moog: I would be very thankful for that. I would be indeed.

Mr. Chairman: ...that we do, but the question is simply asked here, in the 19th of July, and you ~~have~~ came back with the answer that that is not the agreement ~~that we have~~.

Mr. Moog: Mr. Chairman, I don't know what Mr. Candy meant when he wrote this agreement.

Mr. Shibley: Well, Mr....

Mr. Chairman: ~~But~~ Mr. Candy made certain representations to the commission and this is what we are charged with doing, looking into the contract and whether there was value and so on.

Mr. Deans: Right, may I ask a question?

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(Mr. Deans)

Couldn't you have reduced the risks that you are carrying by not having made the building quite so elaborate and made it simply quality rather than luxury?

Mr. Moog: Mr. Deans, don't you see the good deal Hydro is getting by getting a really superb building at a rental rate considerably below market? That is the point, you see.

Mr. Deans: Yes, but part of the risk that you ...

Mr. Moog: You can cut down things and you can build a cheap building, there is no question about that.

Mr. Deans: Yes, but ...

Mr. Moog: You can cut corners. You can do all sorts of things. That isn't what Hydro should have in our opinion, that is not what they wanted.

That is why we got along quite well.

Mr. Deans: Okay.

Mr. Moog: And we will too.

Mr. Deans: Isn't it fair to say though that the specifications as set out were for a quality building?

Mr. Moog: Well, Mr. Deans, the specifications really were so skimpy that you could drive a truck through it if you wanted to be frank about it.

Mr. Deans: Yes, but would you say that that was a quality building?

Mr. Moog: I'm not going to interpret that. I think if you get just a couple of pages of - well, it's a good building, it's very difficult to say what one would do with it. It depends whether you get a responsible developer or a developer who just wants to make a big profit.

Mr. Deans: If you had to build ...

Mr. Moog: It depends on whoever wants to be part of the job, whether he wants to ...

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Mr. Deans: Let me ask it another way. If you had built according to the specifications, is it fair to say that you would have had a large profit on the basis of \$34 a square foot?

Mr. Moog: Our company looks at specifications perhaps a little different than most companies do. When we are finished with a job, we like to be very proud of what we are doing and that has been our reputation. And I don't think that we would have ever skimped on anything.

Mr. Deans: But, you see, Mr. Moog, I'm not asking - I can understand what you are doing. What I'm trying to find out is this: That if you had ~~built~~ built according to the specifications that were believed by the commission to be the specifications for the building, \$34 a square foot would have provided you with a - let's say, an adequate, more than adequate perhaps, profit. Is that ~~fair~~ fair?

Mr. Moog: I don't think the specifications were sufficient to really give you a definite answer on that, Mr. Deans. It just depends how one interprets the specifications at that time.

I believe that if there wouldn't have been big inflation, high interest rates, I think it is fair to assume that there would have been a reasonable profit, yes.

Mr. Deans: Yes, you could have, ~~as~~ was said, you could have built just what was required by the specifications in the terms of the ceiling ...

Mr. Moog: If you wanted to do a minimum job and everything, yes, surely you could have taken away a fair profit.

Mr. Deans: And therefore \$34, in terms of the specifications that Hydro agreed to, was more than adequate for the building that they understood they were getting according to the specifications?

Mr. Moog: I don't know what Hydro understood to be getting under the specifications. I think they understood pretty well what we were ~~going to give them~~.

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K.R.

(Mr. Moog)

~~I had with Mr. Candy. I can't answer you other than~~

Mr. Chairman: That's where the appraiser would have come in, at that point.

Mr. Deans: It's awfully difficult, Mr. Moog, because I don't have the benefit of the expertise that you have, but I know one thing; that if I - if Hydro signed a contract on the basis of certain specifications, and that since the time of the signing of that contract you have been able to put into the building considerably more, at a considerably higher cost to you, without exceeding the amount of money that was allocated for the building ...

Mr. Moog: I haven't said that.

Mr. Deans: Well, you haven't said it, but ~~g~~ are you going to spend more than \$45 million?

Mr. Moog: I couldn't tell you right now, but it is possible.

Mr. Deans: Okay. Well, let's assume that what you bid at \$34 a square foot you believed you could do. You obviously didn't enter into it knowing full well you weren't going to do it.

~~Mr. Moog: Mr. Deans: I signed different~~

~~agreements, signed different~~

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B.A.

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~~Mr. Moog: Mr. Deans, do you realize that the agreement we signed didn't even have the plans for this building which ^{is} ~~are~~ sitting there, that that was almost entirely redesigned, and that we agreed when we signed the agreement, to accept Hydro's architect to do exactly that sort of work? Do you realize the risk we were really carrying then?~~

Mr. Deans: Yes, I'm ~~am~~.

Mr. Moog: There was a lot of faith and trust, both ways in this job, which has never been given credit for.

Mr. Deans: I am prepared to concede to you some risk. All I am ~~was~~ trying to get ^{at} ~~is~~ that when you bid, or when you made your proposal, you did it on the ~~basis~~ basis of being able to construct a quality building, and I can recall the chairman saying that this was a quality building, not a luxury building. They didn't want a luxury building, they wanted a quality building. ~~Do~~ Do you remember that?

Mr. Moog: That's their public relations.

Mr. Deans: Do you recall that?

Mr. Moog: Right.

Mr. Deans: Right. And therefore when they signed the contract with you, the specifications that they signed for were ~~the~~ quality specifications. Since then, it has become a luxury building.

Mr. Moog: I don't call it a luxury building, I just call it an outstanding building.

Mr. Wm. Hodgson: Mr. Chairman, ² ~~does~~ that ~~was~~ explain the type of building ~~and~~ specification Mr. Deans is questioning Mr. Moog on, that would be, at that time, that would be when the appraisers would come in, and if there wasn't \$34.00 worth of building there per square foot then the rent would be reduced ~~and~~ accordingly as far as I understand ~~the~~ agreement.

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~~The~~ The committee resumed at 11:45 o'clock, a.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order.

Mr. Shibley: Mr. Moog, I have asked you to obtain the original of your file called "Negotiations and contract", and place that file before you so that you can follow the following line of questioning. Would you locate within your own file your proposal dated January 24, 1972, please?

Mr. W. Newman: What exhibit number?

Mr. Shibley: It is Exhibit 61. Have you found it?

Mr. Moog: Yes, I have.

Mr. Shibley: And working forward from that, I have a copy of your file, as you know, go to the first page of the proposals, January 24; is that right?

Mr. Moog: Right.

Mr. Shibley: And then there's a handwritten page comes next, is that correct? The very next document?

Mr. Moog: Right, yes.

Mr. Shibley: And then after that is a document dated February 9 sent to you by Mr. Candy under cover of February 10; is that correct?

Mr. Moog: Right.

Shibley:

Mr. Shibley: Is it fair to conclude therefore that the handwritten notes on the sheaf of paper between your proposal of January ~~24~~ 24 and Mr. Candy's letter of February 10 was a memorandum of notes compiled within that interval, having regard for the order in which it is located within your file?

Mr. Moog: I have no idea when I jotted that ~~down~~ ^{down} ~~up~~, I often have a file apart and have things lying on my desk and have a method of scribbling things down so I don't know when I

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E.M.

(Mr. Moog)

did that.

Mr. Shibley: Would it be normal, however, if it's found in that position unless you have scrambled it, that that was a memorandum made in the interval January 24, on or about January 24 to on or about February 10, 1972?

Mr. Moog: I'm afraid not, I have found quite a few things which are scribbled down which are even quite irrelevant to this deal, and it happens when I have a document out and somebody talks or I have some ideas or call or something and I just scribble. I couldn't tell you, I couldn't help you on that.

Mr. Shibley: You can't tell me ^{what} ~~exact~~ date you made these notes?

Mr. Moog: No.

Mr. Shibley: Can you give me a - would it be as late as the end of February or the end of March?

Mr. Moog: It could have been much, much later.

Mr. Shibley: I see. Now, I ask you - well, first of all I would like the handwritten notes to be circulated to the members of the committee and made the next exhibit.

Mr. Chairman: It will be Exhibit 212.

Mr. Shibley: And in addition I ask all members of the committee and ask that the witness be provided with Exhibit 67 so that you might have both documents in front of you. Exhibit 67 is dated April 18. You know, that was the comprehensive report that was compiled by Mr. Candy and Mr. Mink. ~~It was the~~
~~report that was~~

(Tape 1862 follows)

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DT

(Mr. K Shibley)

~~complete report~~ It was the report that was with Mr. Nastich on the flight to Japan. It was a report that had appendixes to it and one of the appendixes to which I want to direct everyone's attention is appendix B, which you will find at the very end of that exhibit, if everyone will turn to appendix B of exhibit 67. ~~Appendix B~~ Appendix B, it is page 7, I believe. Page 7, appendix B, to exhibit 67. Now, Mr. Moog, I want to know firstly, did you discuss the content of whatever is outlined in what is now a ~~new~~ new exhibit, number ~~one~~.

Mr. Chairman: 212.

Mr. Shibley: -- 212 with Mr. Candy?

Mr. Moog: I believe some time ^{or other} I must have discussed some of ~~these~~ these ^{items}.

Mr. Shibley: Yes, you will notice --

Mr. Moog: I don't recall all of them.

Mr. Shibley: You will notice that about mid-page on your notes, you have a note: "Geographical Scatter Effect." Do you see that?

Mr. Moog: Yes, ~~indeed~~.

Mr. Shibley: Is that your terminology?

Mr. Moog: Yes.

Mr. Shibley: Yes, and I alert the committee to the fact that appendix B is styled ~~Appendix B~~ "Geographical Scatter Effect". I then note that in your breakout of notes here you have "telephone cable \$60,000". Is that your figure?

Mr. Moog: That is -- ~~what~~ ^{well} it appears to be, yes.

Mr. Shibley: Yes, and in the appendix B, item 2, "telephone cable rental, Inter-Building cable rental, 60," expressed in thousands, \$60,000. It might help the committee to make notes of these on the exhibit 212, that item 2 in the appendix B should be marked 2 on the notes, and then further down I see, ^{at} buses, \$35,000 in your notes, is that your figure?

Mr. Moog: Yes.

Mr. Shibley: Yes, and similarly in the appendix B, item 3, "transportation bus and mail costs, \$35,000. Then we can go back up

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(Mr. Shibley)*

to the top of your page, you have got a note "Transportation, 50".

Is that your figure?

Mr. Moog: Yes, these are all my figures, Mr.

Shibley.

Mr. Shibley: Yes, you made these computations?

Mr. Moog: I made these -- well, I got this

information obviously from Mr. Candy at some time or other.

Mr. Shibley: Did you get it from him or did you give it to him?

Mr. Moog: No, I believe that some time late in the game, and I don't know when it was, I obtained some figures of what the savings would be to Hydro once they moved into the new building.

Mr. Shibley: In any event, the transportation that's indicated in Appendix B is "DP transport and terminals, not ~~to be~~ 35,000, an estimate pending, that's to be compared with your figure of 50.

Mr. Moog: I believe, Mr. Shibley, that -- and I don't know when this was -- at some time and I think it was quite late, certainly after the contract was all tightened up, ~~that~~ --

Mr. Shibley: Well, Mr. Moog, that's why I made --

Mr. Moog: ^{Some final information from} -- Mr. Candy on this. I did not give him those figures. I recall -- I believe it was a telephone conversation where I obtained some figures which I scribbled down.

Mr. Shibley: I see and that's why of course I was interested in located the document within your file, Mr. Moog. It happens to be a document between the dates of -- documents that dated January 24 and February 10 and it seems to me ~~that~~ these notes, if made within that period of time preceded the date of exhibit 67 which is April 10 ~~1973~~.

Mr. Moog: No, no. What you are seeing there are the specifications and the specifications we had flying around in quite often. These are quite yellowed as a matter of fact, so that must have been --

~~Mr. Shibley: Mr. Moog, that's why I made --~~

(1863 to follow)

H-1863-1

~~there are the specifications and the qualifications we had living
rowed in the office quite often. These are quite yellowed as a
matter of fact so that most have been a~~

Mr. Shibley: Mr. Moog, is it not correct that your file, of which I have a complete copy here in the order of papers of which I have been very careful to preserve, works chronologically from the back forward in chronological sequence?

Mr. Moog: On any document which is dated, yes.

Mr. Shibley: Yes. And this document is located in between documents dated January 24 and February 10. Is that not so?

Mr. Moog: Mr. Shibley, let me explain my working habits. I have got a big desk. I have all sorts of papers on it. Sometimes my pad just gets lost because it is underneath something else. And if I get information I just scribble down onto whatever there is. I have gone through this file as a matter of fact and I have found completely irrelevant notes in here dealing with industrial building in Scarborough, and all sorts of things. Now they are certainly not concerning in chronological order ~~concerning~~ Hydro; and I can't help you on that I do know, ~~however~~, and I do admit and state that at one time or another I did ask Mr. Candy what his savings would be and why it was so urgent that he was to move, just as it was urgent for us, of course to build. That is all I can help you with that.

Mr. Shibley: Well I want to go on with the documents because the coincidence of information is even greater. You go on, and you have moving costs at the ~~top~~ right hand bottom - \$70,000 that happens to coincide with item 6 in appendix B, move cost increment \$70,000. Is that correct?

Mr. Moog: I put in moving costs per annum. I don't know why it is put in per annum. It is a one time expense as far as I can see.

Mr. Shibley: Well I notice in the appendix it is interbuilt extras for moving for \$ 1,000 head per year, 70 x 1,000, so your information in that respect is very precise.

Mr. Moog: ^{oh} I got that information from Mr. Candy.

H-1863-2

Mr. Shibley: So you and he discussed this together.

Mr. Moog: I have said before, I believe, and I am quite sure I go this information...

Mr. Shibley: What I am wondering about Mr. Moog is did you and Mr. Candy get together in an endeavour to assist him in the compilation of part of exhibit 67?

Mr. Moog: No sir, these are strictly his figures given to me.

Mr. Shibley: When did he give them to you?

Mr. Moog: I don't recall the date, but I do know that it was quite late when he was making up some report or whatever it was.

Mr. Shibley: I see. You are saying that he gave them to you after he had formulated his own figures.

Mr. Moog: Absolutely. I don't know what his costs are. I have to rely on his statements.

Mr. Shibley: In that respect, however, Mr. Moog, I notice you have a total of \$725,000 noted. Is that correct? Do you see that figure about the centre bottom of the page?

Mr. Moog: That's right, I see that.

Mr. Shibley: ~~What is~~ ^{where as} Mr. Candy has made some variations and come up with a total of \$687,000, ~~000~~.

Mr. Moog: ~~But~~ ^{Well, what} I perhaps did ~~as~~ I added up what I jotted down and I came up with that one because obviously I didn't get all the figures.

Mr. Shibley: The point I'm making, Mr. Moog, and I'll put this to you: If Mr. Candy had already ~~existing~~ compiled appendix B, and was himself giving to you the information outlined in your handwritten notes, then your notes would have accorded with what was in appendix B.

Mr. Moog: These are not complete notes if I look at appendix B and what you have produced to me now. There is much more in there and I didn't get all of them.

Mr. Shibley: Do you follow what I am telling you, Mr. Moog, that it appears at the time, whichever way this information was crossing, that to some extent it is not consistent? And if Mr. Candy was providing you with all of this data why is there error as to the total and as to the transportation item?

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Mr. Moog: I didn't probably add it up right, nor did I perhaps get all the figures. I just got some figures to get an idea what it would cost Hydro; what the savings would be to Hydro if they would have the building early enough.

Mr. Shibley: Mr. Moog, I'm really only interested in one thing. Did this information pass between you prior to April 10, 19

Mr. Moog: I don't think it could have.

Mr. Shibley: Why not?

Mr. Moog: This is obviously when Mr. Candy did his calculations, and I must have gotten it afterwards.

Mr. Shibley: I see. You think you got it after April 10?

~~Mr. Moog: Oh I'm quite certain of that.~~

~~Mr. Shibley: Did you get it before July 19?~~

~~Mr. Moog: I think it must....~~

H-1864-1 follows

Mr. Shibley: Did you get it before July 19?

Mr. Shibley: I'm having difficulty reconciling in my own thinking, Mr. Moog, and I'd like your help on this to the extent possible, the fact that if Mr. Candy had already compiled appendix B that you should have had all other figures correct except for two. Namely, the one for transportation ---

Mr. Shibley: I see.

Mr. Moog: That's all.

Mr. Moog: Well, it establishes the urgency for getting on with the job, I suppose. Nothing else. I suppose at one time later on in the game when Mr. Candy was making a report he had this information on hand and we were interested in just how much Hydro would save when they move into the new building.

Mr. Bullbrook: Well, perhaps I'm missing something. I don't understand how it affects you either directly or indirectly. Your corporation I mean.

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Mr. Moog: Well, I suppose it just indicates that Hydro needs ^Anew buildings, fast. You see we had two things in mind. Hydro always told us they wanted to go on with it because they would effect a lot of savings. They were paying very high rentals in many commercial buildings where they were split. We, from our side, were extremely interested to get on with the job in order to take advantage, as I call it, before the storm broke loose, on still reasonable interest rates and still somewhat reasonable costs.

So, from both sides it was in our interests to get on with the job as fast as possible. And at one time or another I think I got some of ~~that~~ those figures from Mr. Candy to see how his side ~~was~~ was affected.

Mr. Bullbrook: No. All right, help me in this respect. I don't mean to cross-examine, but I can readily understand Mr. Candy impressing upon you the need for expedition. But why would you sit down and make all these notes and figures? Did you use these afterwards for some purpose?

Mr. Moog: I didn't use them at all, Mr. Bullbrook. I just scribbled these down and I realized that Hydro also definitely ^{NEEDED} to go on.

Mr. Bullbrook: Well, I put it to you rather bluntly. You were obviously aware at this time that Hydro wanted to get on. Surely, Mr. Candy must have conveyed that to you.

Mr. Moog: I think we both realized we had to go on.

Mr. Bullbrook: I can't understand the need, frankly, for you to be involving yourself in ^{ITEMS} ~~items~~ such as ^{MCC} ~~more~~ cost increment. I mean, it just doesn't affect Canada Square. You're not at that stage of the dealings, trying to justify Canada Square's position. This document, as I

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(Mr. Bullbrook)

understand it, is a proposal, or a draft of a proposal, made by Mr. Mink and Mr. Candy for the benefit of the Commission in evaluating whether they should go ahead from the point of view of a development. And it had nothing to do ---

Mr. Moog: I got this information certainly much later than that. And it was just information available. I don't really think there's anything peculiar about it. I certainly didn't use it any place.

Mr. Bullbrook: No. That's exactly the point that I find it difficult to understand. Recognizing how busy you are, why you would be jotting down information ---

Mr. Moog: Look, this takes three minutes to jot down a few figures, if I have a phone conversation with Mr. Candy who at one time might have said we really want to get on with this. And I would say, well, what do you say, and he would tell me.

Mr. Bullbrook: I realize that. Mr. Moog, these figures have absolutely nothing to do with Canada Square? Nothing at all? They are of no benefit for no use by Canada Square?

Mr. Moog: I have not used them.

Mr. Bullbrook: The particularity of this was solely for the purpose of impressing you with the need to get on with the ---

Mr. Moog: In a big transaction like this you obviously get to know, you comprehend quite well, particularly after you've made a deal. And why ~~we~~ shouldn't Hydro tell me some of these things? Just as we would tell them things which are important to them.

Mr. Bullbrook: I don't think there's any impropriety in them telling you this, necessarily.

Mr. Moog: That's what I'm trying to say.

→ 1065-1-150

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M.F.

H - 1865 - 1

(Mr. Bullbrook)

I want to evaluate what I was told more than anything else, and I find it difficult to grasp why he would be telling you these things.

Mr. Moog: I think it came up much later in the game. I believe it must have come up after there has been criticism of Hydro going on with this building. I believe that that is when I got some of that information.

Mr. Bullbrook: So there was discussion between yourself and Mr. Candy at some time as to some public criticism?

Mr. Moog: I think it must have been after there has been criticism, that is what I can recollect at the moment.

Mr. Bullbrook: Were you going to do anything of a public relations nature in connection with justifying the building?

Mr. Moog: You know how bad my public relations are.

Mr. Bullbrook: I can't respond to that.

Mr. Moog: No? I could.

Mr. Shibley: Mr. Moog, I want to put this question in the context of how exhibit 67 may have come about.

Mr. Moog: Mr. Shibley, I had nothing to do with the exhibit, let me make that absolutely clear. I had never seen it before, never heard of it before until these meetings started.

Mr. Shibley: That may be, Mr. Moog, that is a very interesting answer as a matter of fact. You never saw exhibit 67 or the appendices to it until this hearing?

Mr. Moog: I don't believe so, no. Now I haven't gone through it again. Maybe there is something in there which I might have seen and if I give an answer like that I just give it to be expedient about it, to save time, not studying the whole of the document.

Mr. Shibley: Mr. Moog, did Mr. Candy, during the month of March or early April of 1972, tell you that he and Mr. Mink were undertaking the compilation of a report?

H - 1865 - 2

Mr. Moog: I had no idea what Mr. Candy was doing in his own office and with his own people, at no time.

Mr. Shibley: Did you not have a meeting with Mr. Candy on April 10th, and I am going to ask you whether at that meeting did you review this memorandum?

Mr. Moog: To talk about these figures? No.

Mr. Shibley: To talk about the memorandum itself?

Mr. Moog: Well it is a very big memorandum and I haven't really studied it. You have just referred me to one page and I certainly did not discuss that page with him.

Mr. Shibley: You did have a meeting with him on April 10th?

Mr. Moog: Well if that is what the record says it is quite likely.

Mr. Shibley: Mr. Moog, I have a note that you did meet with Mr. Candy on April 10, and that happens to be the date of this document, But what I want to know, having regard for the coincidence of information in the document of April 10, and the notes in your own file, located where it is, whether the memorandum of April 10, which was the resume of all the pertinent facts, was discussed between you and Mr. Candy on or about April 10, 1972?

Mr. Finlayson: I'm sorry - I have a chronology here, Mr. Shibley.

Mr. Chairman: Let Mr. Moog answer the question first.

Mr. Moog: I am trying to figure out, Mr. Chairman, whether I had a meeting or not.

Mr. Chairman: The question is fairly simple and straightforward.

Mr. Finlayson: Of course it is, Mr. Chairman, but I have no ~~written~~ note of any meeting that Mr. Candy had with Mr. Moog on April 10th, and I have got a chronology here which I have tried to keep up to date, and I was just wondering if Mr. Shibley could give us his reference there.

H - 1865 - 3

Mr. Chairman: Well, let's clarify that point first, *then,*

Mr. Shibley: I have Mr. Moog's diary and on April 10th at 10 a.m. Candy's name is indicated. There is a line across the top of it, I don't know what that indicates, but Candy was -- and Mr. Candy's diary has also on April 10 at 10 a.m. "Gerry Moog in his office".

Mr. Finlayson: All right, thanks very kindly.

Mr. Shibley: Now, Mr. Moog, I would like to know -----

Mr. Moog: I have just looked at my opening statement when we were trying to recollect and put these dates down and all it says here is that I had a meeting either late March or early April, so that could have been April 10th, but ~~the letter~~ ^{please} don't pin me down ~~on~~ that date because I just don't know whether it was then or not.

Mr. Shibley: That's right. And you knew as a result of that conversation, did you not, that Mr. Candy was embarked upon compiling some kind of a report for the benefit of the Commission?

Mr. Moog: I don't recall that, Mr. Shibley, I recall him asking me certain questions and I recall asking ~~him~~ ^{us} certain questions. What they were I don't know, I can't help you on that.

Mr. Shibley: And did you give Mr. Candy as much assistance as possible to help him compile that report?

Mr. Moog: Mr. Shibley, I didn't know that he was compiling a report.

~~Mr. Shibley: I~~

Tape H - 1866 follows

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E.M.

~~Mr. Shibley didn't know that he was compiling a report~~

Mr. Shibley: I see. So that again I must tell you, Mr. Moog, that when I saw your notes I wondered whether it was a bit of assistance on your part helping Mr. Candy to do a job that he was designated to do.

Mr. Moog: Mr. Shibley, it is something I got from Mr. Candy I believe after criticism was voiced on the deal. That is all I can help you with and that is why I jotted down a few figures and nothing else came out of it.

Mr. Shibley: Well, what did you discuss on April 10th?

Mr. Moog: I wouldn't know any more.

Mr. Shibley: You have no recollection whatsoever?

Mr. Moog: I really don't know what I did at that particular time in 1972.

Mr. Shibley: And pursuant to what Mr. Bullbrook asked you, the purpose of the information crossing you say is what?

Mr. Moog: Well, I just wanted to know what Hydro's benefits would be. We discussed it at some later time and I got some figures from Mr. Candy which obviously I added wrong.

Mr. Shibley: Now then, while you have the file in front of you, Mr. Moog, I want you to turn - I am sorry to have difficulty locating it for you, but I want you to work to your own file, you'll see that - it is towards the back --- and again this moves us back into your file, the only documents that are dated earlier that I can seem to find is one dated January 24, 1972, which is part of the design brief, and then there is some handwritten notes, two pages of typed items, and then the handwritten notes that Mr. Bell has now located for you. Do you see that?

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E.M.

Mr. Moog: Yes.

Mr. Shibley: Are those in your handwriting?

Mr. Moog: Yes, well, some of them are in Mr. Cooper's handwriting and some of them are in mine.

Mr. Shibley: Well then, may I have that produced as the next exhibit, Mr. Chairman?

Mr. Chairman: That will be Exhibit # 213.

Mr. Shibley: Now, Mr. Moog, you mentioned that some part of this was not in your handwriting. What portion is not in your handwriting?

Mr. Moog: The top section which deals with the Department of Labour and preliminary application and that sort of thing.

Mr. Shibley: I am looking down at the lower right part and there is a date on it, July 4, '72; is that in your handwriting?

Mr. Moog: No, I believe that must have happened on that date because obviously my assistant put the date on it.

Mr. Shibley: Your assistant put the date on it?

Mr. Moog: That is right. It must have sat on my desk and I think there was some, I believe the reason why that date is on, and I am just trying to help you there, why it would be on that one,


(Tape 1867 follows)

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A.A.

H-1867-1

(Mr. Moog)

~~I believe there was a reason why that date was put on~~
~~that day or 12.15-12.20 p.m. because of the discussion on asking questions~~
is because Mr. Cooper must have left it on my desk, and then I kept on scribbling on the same sheet, and certainly what Mr. Cooper put on was put on on that particular date, because I believe there has been ~~was~~ some discussion on asking questions of the Department of Labour which our architects would do.

Mr. Shibley: I want to go up to the upper portion of it, at the very top - Arthur whatever it is. Can you translate that because the reproduction is not very good? Would you read through this with us please?

Mr. Moog: I believe it might well say, McMurtrie.

Mr. Shibley: You'd better clear that up.

Mr. Moog: I would be very happy to. The only discussion I had with Mr. McMurtrie prior to meeting him at this ~~the~~ hearing, and I never had met him prior to this hearing, was when he acted as president of the ratepayers association opposing our Canada Square development at Yonge and Eglinton, and why his name is on here, I could only presume that that is in that connection.

Mr. Shibley: What is the name on top of that?

Mr. Moog: I am trying to decipher that. It says Arthur "Yew", or some name like that.

Mr. Genest: Arthur Huyke.

Mr. Moog: Huyke? No.

Mr. Genest: He is also a member of the ratepayers association. He is a friend of mine.

Mr. Moog: Oh, really.

Mr. Chairman: The comment to that is, not any more.

Mr. Shibley: All right. And then there is "Henry".

Who is Henry?

Mr. Moog: Mr. Genest, is he also a member of your association?

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B.A.

Mr. Genest: I am just speculating.

Mr. Shibley: Whose handwriting is it?

Mr. Moog: I don't know.

Mr. Shibley: Then it says: "When can Ken work with me?"

Who is Ken?

Mr. ^{Moog} ~~Shibley~~: I think that would probably be Ken Candy.

Mr. Shibley: So this, on July 4, Cooper is putting the question: "When can Ken Candy work with me?" Is that right?

Mr. Moog: That is what it would appear, yes.

Mr. Shibley: It is in your handwriting.

Mr. Moog: No, no, this is Mr. Cooper's handwriting.

Mr. Shibley: That's what I thought. "Final plans, etc."

Would that ~~xxx~~ relate to plans that Cooper and Candy would make final?

Mr. Moog: I would think so, yes.

Mr. Shibley: "Can we make preliminary application to the Department of Labour? That would be for building..."

Mr. Moog: That would be to clear up certain question which he must have had, what they would be I don't know; but it is not uncommon to ascertain certain information from the Department of Labour when you are planning on a project.

Mr. Shibley: Then you have the note, or there is the note, "October 1, Treasury Board". Now, would you please help me as to what is meant by that entry?

Mr. Moog: I don't quite know what ~~the~~ Treasury Board is referring to. If it refers to Hydro that we were ~~trying~~ ^{then} to get the province's ~~guarantee~~ ^{then}, then I would think ~~that~~ ^{that} if there was an October 1st meeting it would be that one. If it referred to the Treasury Board of the federal government, maybe they had a meeting, maybe Mr. Bullbrook can help me on that one. We were dealing at that time still on the CBC proposition.

Mr. Bullbrook: I want you to know I am far removed from the federal Treasury Board, except through the Department of National Revenue.

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P. A.

Mr. Shibley: I would like to come back to.... Mr. Moog, you have mentioned something about a provincial guarantee. I know that was in referenced in earlier evidence regarding this transaction. Was it intended that there be submission made to Treasury Board on October 1 referable to a provincial guarantee?

Mr. Moog: I don't recall any such thinking nor any such date. I don't know why this date is here. If you can find out whether there was a meeting here then perhaps that was so. If there wasn't a meeting, then ^{that} wasn't so. But I do know I didn't meet with the minister of the federal Treasury Board regarding the CBC proposition and I really can't help you with whether this was provincial or federal. So I would have to leave it like that.

Mr. Shibley : It struck me that this, with the exception of names on the top, was a memorandum referable to the Hydro building and nothing else, because it goes on and talks about.....

Mr. Moog: Mr. Shibley, let me please explain that I have a habit of scribbling all over the page. Unfortunately, I have that habit and sometimes on something completely out of context. I can take this file apart and show you literally, there are proposals on industrial buildings in Scarborough

(Tape H-1867 follows)

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M.R.

(Mr. Moog)

~~I can take this file apart and show you that literally their~~
~~proposals on industrial buildings in Scarborough~~ ^{are} in this file,
under the title of "Hydro documents."

Mr. Shibley: Mr. Moog, you may have that habit but this is Mr. Cooper's handwriting.

Mr. Moog: Yes, he left this on my desk and then some phone call might come in, could have very well been from Ottawa, that there was a treasury board meeting and I put on "October 1st, Treasury Board." It could also have been that if we were to seek the province's guarantee and maybe somebody can assist me here, if there was a Provincial Treasury Board meeting on October 1st, then I would have liked to have perhaps some answers there whether we could get a guarantee or not. I don't just know whether there was one or not at this moment.

Mr. Shibley: I see. In any event, if there was to be a provincial guarantee for the transaction, it would have required approval?

Mr. Moog: I would presume so.

Mr. Shibley: And then the next line "16-17", what's that?

Mr. Moog: That I don't know.

Mr. Shibley: And then you notice \$29, ¹⁹⁶⁹ ~~sixty-nine~~ 25 per cent factor equals ^{36.25} ~~thirty-six~~ and then there is the figure ^{"36"} ~~thirty-six~~. Can you explain that to the committee?

Mr. Moog: They must have been some costs of a building in 1969 costing \$29 and that we figured that the cost up-dated to the present time would justify a 25 per cent factor. If there was a 25 per cent factor then obviously we would be at \$36 which would be more than we discussed on the Hydro building, which was \$34.

I think that's all I can help you with, Mr. Shibley.

Mr. Shibley: Well, now, I want again to show you the similarity of information, Mr. Moog.

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M.R.

(Mr. Shibley)

In Exhibit 72, if the members of the committee would look at it, dated June 19, 1972, which is a draft of a memorandum prepared by Mr. Candy

Mr. Genest: I'm sorry, what's the exhibit number?

Mr. Shibley: Exhibit 72, dated June 19, and on

Page 6 of that exhibit you will see the wording, if everybody is with me, "As our original design was estimated to cost \$29.00 per square foot as of December 31, 1969, and the composite construction cost index has increased by approximately 25% since that date, we feel that a cost of \$34 per square foot is a minimum in order to provide the quality and character of building required."

Now, Mr. Moog, again the coincidence of information between what's in your memorandum, of - that is given a July 4 date and the memorandum of June 19 is something about which I'd like to ask you: Was there conversation again between yourself or anyone in your firm and Mr. Candy for purposes of settling, so to speak, the content of memoranda that were to be filed with the commission?

Mr. Moog: I don't know what Mr. Candy did on memorandums with the commission, but it is not unlikely that we could have agreed that there would be a factor applicable equal to 25 per cent between those years because that is really quite common place information. You can get it from statistics if you wish.

Mr. Shibley: Yes, I understand that, Mr. Moog and as such let's accept that this document was made on July 4 that you and Mr. Candy or Mr. Cooper, ^{of} whoever, from your office and Mr. Candy, would be discussing that sort of thing.

Mr. Moog: We could have discussed cost, yes.

Mr. Shibley: Yes, and the escalation of costs.

Mr. Moog: That is quite possible.

Mr. Shibley: Yes, and they might have well been discussing the need to apply to Treasury Board at that time.

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M.R.

~~Mrx~~ Mr. Moog: I don't think so. I don't think that Mr. Candy or Mr. Cooper would have an idea on how to go about that.

Mr. Shibley: I see. In any event, is this a memorandum from Cooper to you? Because it asks "When can Ken work with me?" It doesn't sound like ~~_____~~

Mr. Moog: I tried to explain to you before. How we operate; we've got our offices very close by; if there is something which has to be done, we don't go through any big routine in having a memorandum with 50,000 copies; ~~he comes over to my office, puts something on my desk and when~~

~~I come to either~~



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DT

(Mr. Moog)

~~He comes over to my office, puts something on my~~
desk and when I come in, I either scribble an answer to it or walk over to his office and say, yes, we are going to do so and so, so all Comper had to do with this one, as I can see it, were the first few sentences where he was concerned to get certain information from the Department of Labour, and he wanted my answer could he go down there or couldn't he.

Mr. Shibley: Well now, the other thing about this that interests the committee I am sure is the timing when this type of matter was under discussion between your people or yourself and Mr. Candy, having regard for the fact that the commission, the Hydro Commission, did not meet, I am sorry -- to be precise, the meeting at which it finally decided upon letting the contract was July 19th.

Mr. Moog: Yes.

Mr. Shibley: It had had an earlier meeting I think on June 23rd.

Mr. Genest: The 29th.

Mr. Shibley: The 29th, thank you, Mr. Genest.

Was Mr. Candy discussing the information that was being tabled with the commissioners with you during the interval between those meetings?

Mr. Moog: I don't think so at all. Mr. Candy played it very close to the vest. He tried to get information from us which was useful to him for his purpose and whatever information we could get from him as far as the building is concerned, we certainly asked him for.

Mr. Shibley: I suggest to you, Mr. Moog, that in 1971 of course your firm had the benefit of working very closely with Mr. Candy. Is that right?

Mr. Moog: As closely as we have worked with any architect, or anybody ^{REPRESENTING} ~~that was sending~~ any company, CBC or Bank of Montreal or Hydro. It really doesn't make any difference. I don't consider it any closer or any looser.

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Mr. Shibley: ^{AND} ~~they~~ you were keeping the matter of his assistance and the fact that he was looking at design sketches confidential, very close to the vest, using your term?

Mr. Moog: Oh, I don't think we would publish it.

Mr. Shibley: Yes, I realize you wouldn't publish it but this was a matter of concern to you that his involvement with your firm was not known ~~known~~ generally. Is that not so?

Mr. Moog: Mr. Shibley, if you are trying to get a contract, you don't tell your competitors necessarily about it do you?

Mr. Shibley: I'm not talking about that. I am talking about the aid that you were receiving respecting design from Mr. --

Mr. Moog: Again, that is all a matter of degree. When you have in-house architects and good ones as we have who are capable and in a position to immediately speak in an architect's language, I suppose you can enthuse the other architect and I think that's what happened.

Mr. Shibley: Yes.

Mr. Moog: So there isn't any secret about that nor was there anything to be kept secret about it.

Mr. Shibley: Weren't you --

Mr. Moog: ^{We didn't} ~~Didn't~~ want to have people know -- not when dealing on a contract like that, of course not.

Mr. Shibley: Weren't you conscious of the fact that it might not be appropriate for Mr. Candy to be affording you that kind of assistance in those ~~circumstances~~ circumstances?

Mr. Moog: The assistance he afforded wasn't altogether that great. We made proposals. We made sketches and if he didn't like something, we would naturally watch ~~his~~ his reactions, as you watch mine when you question me.

Mr. Shibley: Mr. Moog, you are not answering my question.

Mr. Moog: Mr. Shibley --

Mr. Shibley: I asked you were you conscious --

Mr. Moog: No, no.

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Mr. Shibley: You were not?

Mr. Moog: Not at all, quite a normal procedure.

Mr. Shibley: I see. Well then I would like you to

look at a letter from your file dated November 4, 1971.

Mr. Chairman: Exhibit number 214.

Mr. Shibley: Now, Mr. Candy, who is Michael Kelly --

I am sorry, Mr. Moog, who is Michael Kelly?

draughtsman.

Mr. Moog: Michael Kelly is a prospective ~~man~~ draughtsman.

Mr. Shibley: I beg your pardon?
draughtsman.

Mr. Moog: A prospective ~~man~~



(H-1870 to follow)

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E.M.

H-1870-1

(Mr. Shibley)

~~Michael Kelly: I am sorry, Mr. Moog, who is Michael Kelly?~~

~~Mr. Moog: Michael is a prospective draftsman.~~

~~Mr. Shibley: Pardon?~~

~~Mr. Moog: Prospective draftsman.~~

Mr. Shibley: Yes. And you had retained him to do some design sketches?

Mr. Moog: We retained him to do a sketch for the lower portion of one of the propositions we presented to Mr. Candy, yes.

Mr. Shibley: And this is a letter to the same Michael Kelly, is it?

Mr. Moog: That is right.

Mr. Shibley: And it is dated November 4, 1971, so I take it he'd been working on sketches as of that date?

Mr. Moog: We just wanted to represent, as I recall it, a lobby, what a lobby could look like.

Mr. Shibley: Yes.

Mr. Moog: On a specific type building, which I don't think is even the building we've got here, so we asked him to do it over a weekend because I think he works elsewhere during the ~~week~~ ^{weekends} and I don't know where. And he did it on that weekend and I think it cost us, I BELIEVE, \$100, and I sent him a cheque for it.

Mr. Shibley: It is the wording of the letter that interests me, Mr. Moog. It says: "Thanks for a valiant effort under most unusual circumstances. We all appreciate your efforts very much". Now, what were the unusual circumstances?

Mr. Moog: To do the job over the weekend as I RECALL ~~it~~ or within a day or two, I think he worked through a whole night to do it. And ~~we~~ we asked him to do it when he had some time, ^{and} right away, ~~because~~ ^{because} we wanted to see what his interpretation

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H-1870-2

)Mr. Moog)

would be of ~~the~~² lobby.

Mr. Shibley: I see. Did you show his sketches to Mr. Candy?

Mr. Moog: I believe we had them in the office for some time and I certainly think that he would have seen them.

Mr. Shibley: Yes. And were those sketches that Mr. Candy made changes to?

Mr. Moog: No. No, it was, as I recall it, quite a different building. Perhaps Mr. Candy could help me on that, but I don't think it had anything to do with the existing building.

Mr. Shibley: In any event, you say it was no great secret that these sketches were being compiled and Candy was ~~reviewing~~ reviewing?

Mr. Moog: Well, we ~~was~~^{tried} to sell our company and our art to Mr. Candy, and that is how we did it.

Mr. Shibley: I want to ask you, Mr. Moog, - oh, there is something I forgot to cover with you earlier. Yesterday I asked you about what were the items of set-off that were supposed to be afforded to Hydro in exchange for the change in specification as to lighting and point loading? You said you didn't think point loading ~~was~~ had been changed, but in any event you were going to look into that.

Mr. Moog: Yes, I haven't been able to get you the exact information from our architect, but as I recall it the two important points - and really we are only dealing with lighting anyway - and on lighting I would just like to make this statement, and I believe our engineers whenever they come on can verify this - we at all times planned the building with one and a quarter cubic foot per minute air throughput, and that

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(Mr. Moog)

would not change between 125 ~~and 150~~ foot-candles, ~~and 150~~ and 150 foot-candles, so there really wasn't any saving in that one. As far as the 25 ~~foot-candles~~ saving is concerned on, say, the installation of light fixtures, or the two degrees additional cooling required, we always had capacity for that. ~~Now~~ have and had then ~~and~~ and it would actually be a detriment to us. The reason Hydro really wanted to get down in their light load was because they were paying for their electricity, which they very well knew we would be using for heating the building. So what it really meant was as Hydro would have a saving in lighting costs, we would have an increased heating cost, which in my opinion more than offsets whatever there was to be saved, particularly since we provide a much better flushing effect on ~~the~~ air movement than competitive proposals did. Now, as far as the ~~feature~~ ~~feature~~ is concerned, and that is the offset, one of the offsetting factors, I know, was that we proposed to Hydro ~~also~~ ~~also~~ also to go on post-tensioned steel construction, which, in order to save height. You see, once you get a contract, you also after then have to struggle with all the obstacles you have, and one of them has been the University Avenue committee who said you have to keep your height down as much as possible. In order to comply with that, we went for a thinner floor slab and we went to post-tensioned steel which is much more expensive than a normal type of structure and also provides quite a nice open floor space, too.

So I think that in itself would more than offset whatever Mr. Tatham was trying to say

(Tape 1871 follows)

August 28, 1973
12.35-12.40 p.m.
M.F.

H - 1871 - 1

(Mr. Moog)

~~so I think that in itself would more than offset whatever~~
~~Mr. Tether was trying to say on how big the savings were.~~

But there were other features too and I haven't been able to get all these for you yet.

Mr. Shibley: When did you make the decision to make these changes that you say are offsetting items?

Mr. Moog: I think they were made very early in the stage because we realized how much height played an important role in the project.

Mr. Shibley: When you say early in the stage, would that be when?

Mr. Moog: I don't know exactly.

Mr. Shibley: Would it be this year? Early 72?

Mr. Moog: No, I think it would probably have been earlier than that.

Mr. Shibley: December, 72?

Mr. Moog: I am not certain on that.

Mr. Shibley: When did you start construction?

Mr. Moog: Very shortly after the contract was signed.

Mr. Shibley: Which was? We still don't have the chronology -----

Mr. Moog: I can't tell you exactly when we started whether it was -----

Mr. Shibley: I see. Was it after construction got under way?

Mr. Moog: I would presume that that decision was made prior to that.

Mr. Shibley: I see. I am showing you a letter dated September 20th, 1972, from Mr. Candy to yourselves -----

Mr. Renwick: Mr. Chairman, could I just -----

Mr. Shibley: Yes.

Mr. Renwick: I would like to just follow along with two

H - 1871 - 2

(Mr. Renwick)

questions on the letter to Mr. Michael Kelly.

As I understand your reply to Mr. Shibley that the unusual circumstances related to Mr. Kelly working all night, I had read the letter when I first glanced at it as understandable that the valiant effort was the working all night but that the under most unusual circumstances, you know, unless he did it on his head or upside down or something.

Mr. Moog: Well no he did it from the point - if I could clear it up for you - I think he did it with very little information. He had very little to go by. It was a matter that he had a meeting with our architect, our architect sketched something, and we didn't really have much to go by and we wanted to make a presentation, a prospectus, and to get that done is quite unusual. Normally you give an architect a complete set of drawings and elevations and a lot of detail from which he then makes his artist's conception. He didn't have that.

Mr. Renwick: Well it seems to me that there must have been some circumstances that required you to ask Mr. Kelly to make this valiant effort. That is the way I read the letter and it seems to me that -----

Mr. Moog: Mr. Renwick if you would have dictated it perhaps you would have said it much better than me and much more precisely because you are very precise in language.

Mr. Renwick: No.

Mr. Moog: I just wrote a couple of lines.

Mr. Renwick: No, I am not going to accept that because what were the circumstances, unusual or otherwise, which required you to ask Mr. Kelly to put in a valiant effort by working all night over the weekend on his "moonlighting" to do this job? What prompted you to call him to ask him to do it under those circumstances? What was the urgency?

Mr. Moog: As I recall it ^{we were} ~~was~~ at that time trying to

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M.F.

H - 1871 - 3

(Mr. Moog)

see whether Hydro would accept perhaps a different type structure and a different lobby altogether than finally what the agreement was. We had very sketchy information on it. Our architect did some work which might have taken him - I don't know - a day or two or three, and that was all the information he had on paper; and I said well that really doesn't give us anything, a very good percentage, and our architect suggested that he would call this gentleman in - I don't think I met him before, I might have but I don't recall - and ask him to do a ^{PLANNING} ~~prospectus~~ out of that sketchy information which is very difficult to do, and then he asked him to do it yesterday.

Mr. Renwick: I would accept that, ~~which~~ I can understand that, but it strikes me that the unusual circumstances had something to do with some sense of urgency on your part that -----

Mr. Moog: Oh we always wanted to have things done right away, and that was not unusual and that I think was again - to ask an artist to do this with that little information is an unusual circumstance. I certainly consider it that.

Mr. Renwick: Did you have to have it on a particular day for a particular purpose?

~~Mr. Moog: Did you have to have it on a particular day for a particular purpose?~~

Tape H - 1872 follows

August 28, 1973
12.40 - 12.45 p.m.
M.R.

~~have it on a particular day, for a particular purpose?~~

Mr. Moog: Well, if you would ^{work} ~~assist~~ with our company you would quickly get used to the fact that we always want to have things right away. I don't know why we wanted it that quickly or ~~we always~~

~~Mr.~~

~~Mr. Moog:~~ wanted it right away.

Mr. Renwick: It wouldn't be unusual?

Mr. Moog: It's not unusual at all.

Mr. Renwick: No, but your letter says that it was most unusual ~~circumstances~~

Mr. Moog: Well, for an artist to do it ~~and~~

Mr. Renwick: ~~and~~ even for your company.

Mr. Moog: Mr. Renwick, I would like to give an artist, for a job like that, say a couple of weeks. And we asked him, said "When do you have some free time?" He said "This weekend," he said, ~~this weekend said~~ "How about getting it done by suppose Monday or Tuesday, or whatever the case may be and I'm just trying to paraphrase, ^{or at least} ~~just~~ give an idea what happened and this is how this came about.

Mr. Renwick: Mr. Moog, I'm only going to labour it one step further on this question. "Thanks for a valiant effort under most unusual circumstances. We all appreciate your efforts very much." Now if it's usual for your company to expect the unusual of people that you ask to do something, then it must have been particularly unusual to have required you to write a two-line letter saying "Thanks for a valiant effort under most unusual circumstances. We all appreciate your efforts very much." Even for your company it must have been out of the ordinary.

Mr. Moog: I thought it would be a nice gesture and sent ~~this man~~ this man his cheque right away which was enclosed in this letter and to say "thanks".

~~Now~~ I think it's just ---

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Mr. Renwick: Mr. Chairman, I'm not going to labour it further.

Mr. Moog: Just, I suppose, courtesy, if you wish.

Mr. Chairman: Mr. Henderson.

Mr. Henderson: No, I was just suggesting it was lunch time.

Mr. Chairman: Oh, I thought you had a very important question. Well I was going to go on for another few minutes. We have Exhibit 215. Maybe we had better deal with that before lunch.

Mr. Shibley: I was just going to exhibit through you, Mr. Moog, a letter from Mr. Candy to yourself, dated September 20, 1972. ~~On~~ this letter has to do with the change of lighting specification.

Mr. Moog: Yes.

Mr. Shibley: And simply seems to be a case of "Mr. Candy writing to you to say you will recall that in the specification of the above building we stipulated lighting level generally was to be for 150 foot-candles, but having reconsidered this we feel that this is somewhat in excess of what we require. We would now ask the lighting generally in this building be designed on the basis of 100 foot-candles maintained, which will require that the lighting be designed initially for possibly 120-125 foot-candles."

Mr. Moog: Yes.

Mr. Shibley: Now, was that the first indication or confirmation from Mr. Candy of that change?

Mr. Moog: I believe that was the first official communication to me. Mr. Candy might have discussed this with Mr. Cooper, because I think Hydro ~~tricked~~ ^{tricked} at one time or another to the effect that they were heating our building.

Mr. Shibley: Yes.

Mr. Moog: And I think that that was what really bothered them.

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M.R.

(Mr. Moog)

prompted them to go into this because *that is a saving to Hydro.*

Mr. Shibley: Mr. Moog, that is what I think the committee wants to get clear. You see, there is no reference to offsetting items in this letter.

Mr. Moog: No.

Mr. Shibley: So that, I take it, it wasn't offsetting items ^{but} because Hydro itself had decided *that it* —

Mr. Moog: I'm sure that that is so.

They themselves decided because they didn't want to heat ~~up~~ our building.

Mr. Shibley: It had nothing to do with offsetting items.

Mr. Moog: Well, excepting that when somebody goes up here and says, "Oh, we could have saved a few million dollars", I think that's a wrong statement. All I want to do is correct it, because first of all, it wasn't any millions because we always had one and a quarter cfm per square foot per minute. We always had a higher air capacity in our building and we did do many other things which the other ones didn't even dream about doing.

So, ———

Mr. Shibley: Well, ^{the only} ~~on that~~ point, at the moment Mr. Moog, is that what really governed the change in Hydro's mind was, I gather, the savings ~~and~~

Mr. Moog: In heating.

Mr. Shibley: In heating.

Mr. Moog: I'm pretty sure that's correct. Mr. Candy can correct me, if I'm wrong.

Mr. Shibley: And that whatever consequences had for you in term of savings it was of a mutual benefit really.

Mr. Moog: Yes, it was a mutual benefit. ~~really~~ Yes.

Mr. Shibley: May we have that made the next exhibit?

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M.R.

Mr. Chairman: Well, I did. I marked it *exhibit*

215.

Are you through with that?

Mr. Shibley: Yes.

Mr. Chairman: It might be a good time then

to take a break. So, until 2.00 o'clock we are adjourned.

H-1873 to follow

APPEARANCES

Committee members:

J.N. Allan

J.E. Bullbrook

I. Deans

M. Gaunt

L.C. Henderson

R.G. Hodgson

W. Hodgson

J.P. MacBeth (Chairman)

W. Newman

J.A. Renwick

G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC

James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC

Gregory Rice

G.D. Finlayson, QC

President, Canada Square Corp. Ltd.:

Gerhard W. Moog

List of exhibits introduced during this sitting appears on the next page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
212.	1861-2	Handwritten notes by G.W.Moog, Canada Square Corp. Ltd. - re Geographical Scatter Effect
213.	1866-2	Handwritten notes by G.W.Moog and K.R. Cooper, Canada Square Corp.Ltd.
214.	1869-3	Letter - November 4, 1971 - From G.W. Moog, Canada Square Corp.Ltd. to Michael Kelly
215.	1872-2	Letter - September 20, 1972 - From K. H. Candy, Ontario Hydro, to G.W. Moog, Canada Square Corp. Ltd. - re Ontario Hydro head office building

#64

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, August 28, 1973

Afternoon session

1873-1917

LEGISLATURE OF ONTARIO

SELECT COMMITTEE-HYDRO HEADQUARTERS

Aug. 28/73

2:10 - 2:15 pm.

M.S.

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The committee resumed at 2:10 o'clock, p.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order. Mr. Moog, Mr. Shibley.

Mr. Shibley: Mr. Moog, I'd like to produce to you what is Exhibit 154 in these proceedings, being a memorandum dated March 28, 1972. Do you recognize that memorandum?

Mr. Moog: Yes I do.

Mr. Shibley: I understand that it was prepared by Mr. Jim Bradshaw, your solicitor. Is that correct?

Mr. Moog: That's correct.

Mr. Shibley: Would you please tell this committee the circumstances surrounding the preparation of that memorandum?

Mr. Moog: I think I met with Mr. Bradshaw and asked him to assist me in providing a resume of the assets and, I suppose, sales points of our company, and that's what we did.

Mr. Shibley: Yes, and did you in turn provide that to Mr. Candy?

Mr. Moog: I believe Mr. Candy has got a copy of it. How it got to him, I have been trying to figure out myself. Whether it was in our office and was lying on the table and he picked it up. I certainly didn't send it to him. I don't know how it got to him.

Mr. Shibley: Mr. Moog, this document was produced out of the files of Ontario Hydro.

Mr. Moog: Right.

Mr. Shibley: So that, I gather that if it was received by them, it was received by Mr. Candy?


Mr. Moog: I would say it would only have been put through Mr. Candy.

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2:10 - 2:15 pm
M.S.

Mr. Shibley: Mr. Candy wouldn't just pick up a document like this. I put it to you that you gave it to him.

Mr. Moog: Mr. Shibley, Mr. Candy was in my office. I probably had this document there. It's a possibility that he picked it up there and that I might have made a few references on it, I ~~don't~~ know. I did not officially submit this document. I certainly put these points down, I suppose, to assist myself more than anybody in selling our company. ~~_____~~



Tape H 1874 follows

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B.A.

(Mr. Moog)

~~put these points down, I suppose to assist myself more than anybody in selling our company.~~

Mr. Shibley: Mr. Moog, again, I am going to put it to you that the date of this memorandum being March 28th, that it was part of an effort to contribute to the content of the report of April 10, exhibit 67, which was being compiled by Mr. Candy and Mr. Mink. Wasn't that the purpose for which this memorandum was contributed to Hydro?

Mr. Moog: I have told you earlier, Mr. Shibley, and I am saying it again, I had no idea what was happening inside Hydro.

Mr. Shibley: That is not what I asked of you.

Mr. Moog: ^{WHETHER THEY NEEDED A} report on that, I don't know.

Mr. Shibley: Did Mr. Candy tell you that he needed some background material on your company?

Mr. Moog: No, he did not.

Mr. Shibley: I see. So then, again, it is a sheer coincidence that on March 28, a memorandum, in depth, of the history and expertise, and so on, of your firm, was created and much of the information therein, and that document I might go on to say, found its way into the hands of Hydro and Hydro produces its memorandum on April 10, some days later. That is all pure coincidence.

Mr. Moog: There is no question about that I continuously tried to promote our company to Hydro, and how this got to Hydro I really cannot tell you. I know that there was no letter sent to Hydro and it wasn't submitted in any official capacity. We simply put some thoughts down on paper and I am sure that I have expressed these same thoughts probably verbally as much as they are even outlined in writing to Mr. Candy many times.

Mr. Shibley: What interests me about this, in addition to the typed portions, there are handwritten portions. Whose handwriting is that?

Mr. Moog: On the last page of this, ~~that~~ that is my handwriting.

Mr. Shibley: Yes. So you did some editing on that in that respect, did you not?

Mr. Moog: That's right, I got this draft from Mr. Bradshaw and I thought there were certain things ~~was~~ which perhaps could be expressed differently or better.

Mr. Shibley: Yes. So ~~was~~ he prepared it on March 28th, you received it shortly thereafter, I presume.

Mr. Moog: I am not so sure that I didn't receive it even when I was with Mr. Bradshaw. I don't know how I got it from him. It could be that I picked it up, ~~it~~ it could be that he sent it to ~~me~~ me, I can't recall.

Mr. Shibley: All right. And then you had a meeting with Mr. Candy on March 30th, did you not?

Mr. Moog: Just a moment.

Mr. Shibley: Without you checking I can tell you that you had one, according to Mr. Candy's diary.

Mr. Moog: Well, if Mr. Candy says so then I am sure I had one.

Mr. Shibley: Yes. Did you review Mr. Bradshaw's memorandum with Mr. Candy at that time.

Mr. Moog: No, I did not.

Mr. Shibley: Is that when he got the memorandum?

Mr. Moog: That I don't know.

Mr. Shibley: Did you discuss with Mr. Candy at the meeting of March 30th that he was in the process of preparing a memorandum that you would have a date at that time?

Mr. Moog: ~~No~~ No, Mr. Shibley, I simply just assumed that Mr. Candy was obviously trying to sell our proposition there, somehow or other, to the commission. How he goes about that, that wasn't my business and I don't know how he did it until this ~~meeting~~ ^{meeting} started.

Mr. Shibley: Well, what was the purpose in the preparation

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B.A.

(Mr. Shibley)

of the memorandum which is exhibit 154. Why was Bradshaw ~~was~~ preparing it, why were you editing it just at that particular time?

Mr. Moog: It is sales material, or promotional material, which is not unusual for us to do.

Mr. Shibley: INTended for whose eyes?

Mr. Moog : Well, I would have thought all along, and quite frankly I expected all along, that I would be called at some time or another, in front of some commission or officials of Hydro to present our case. Therefore, I tried to gather up material as much as I could during this entire period preceding the signing of the contract.

Mr. Shibley: Mr. Moog, I think that you recognize in the course of your evidence today there is a coincidence of information in your handwritten notes with the Appendix "B" to that April 10 report as to the savings to Hydro. There is a coincidence....

Mr. Moog: It is not a coincidence, Mr. Shibley.

Mr. Shibley: When I say coincidence I mean the same information.

Mr. Moog: I got that information from Mr. Candy, and I have told you so.

Mr. Shibley: Well, I realize you say you got it from him, Mr. Moog. That is a matter for the committee to decide upon.

Mr. Moog: Right.

~~Mr. Shibley: I am not sure that I have not already asked you~~

(Tape H-1875 follows)

H-1875-1

(Mr. Shibley)

Mr. Shibley: It is clear that this memorandum of Mr. Braden giving the promotional aspects of Canada Square was prepared by you and received by Hydro through Candy.

Mr. Moog: I have asked Mr. Candy how he got it. He doesn't know. I know that I did not officially submit it. I am ^{I had} sure this memorandum amongst other material in our office.

Mr. Shibley: Yes. Did Mr. Candy ever tell you that the chairman, Mr. Gathercole, had given instructions on March 11 that a comprehensive memorandum, or submission, should be prepared by the staff of Hydro for submission to the Premier and the cabinet? Did he ever tell you that.

Mr. Moog: Mr. Shibley, I have no knowledge of what happened within Hydro. I dealt with Mr. Candy. Mr. Candy asked me certain questions and I tried to answer them as best as possible. But he did not tell me how high it was interior ...

Mr. Shibley: You haven't answered my question Mr. Moog.

Mr. Moog: No, I didn't know.

Mr. Shibley: He never told you that?

Mr. Moog: No, he never did.

Mr. Shibley: I see. And you didn't know during the month of March that there was this effort going forward to compile this very comprehensive memorandum?

Mr. Moog: I had no idea what happened within Hydro.

Mr. Shibley: And the fact that the information is such as is in terms of information from your own files, you say, there is

Mr. Moog: No.

Mr. Shibley: Now then, in any event, Mr. Moog is it fair to say that from the time you started dealing closely with Mr. Candy - let's say in the fall of 1971 and forward throughout 1972 - that you were in regular and close communication with him?

H-1875-2

Mr. Moog: That is a relative assessment. I would have often liked to be much closer to Mr. Candy. I would have often liked to know more details. I think you have got a pretty good record of Mr. Candy's meetings. I think you have got one of mine. That is my recollection. I don't consider that particularly close. I think that is a matter of judgement ~~whether~~ whether you call that close or not. I don't think I consider that unusual at all, quite frankly we

Mr. Shibley: Mr. Moog, what I am really interested in...

Mr. Moog: No, I want to make one point. There were periods of time when I didn't hear from him at all. I thought ~~maybe~~ ^{well} the deal is dead.

Mr. Shibley: I see.

Mr. Moog: So I really don't consider that particularly close. It is a relative term.

Mr. Shibley: When did you not hear from him? You said there were periods of time.

Mr. Moog: I can't recall when, but there were periods I didn't hear from him - quite extended periods of time.

Mr. Shibley: I see. I realize that you may not have been close to Mr. Candy in general terms, but as matters related to Hydro were evolving isn't it a fact that Mr. Candy was keeping you fully abreast of what was transpiring?

Mr. Moog: I wouldn't think so. I think Mr. Candy asked me the questions which were important to him, and I never knew where we really stood.

Mr. Shibley: You say he provided you with the information as to the savings, and so on, that were going to be effected.

Mr. Moog: That happened a long time after Mr. Shibley. I thought I made that clear.

Mr. Shibley: All right. I'm talking now about April, 1972, May 1972.

Mr. Moog: No, I'm talking later than that. I think I have said earlier that I believe it happened after there was criticism on the Hydro deal by the press or whoever started the criticism.

H-1875-3

Mr. Shibley: Well let's talk about criticism. There was apparently criticism of the Hydro deal at least as early as July, within Hydro, because Mr. Smith had written a letter to Mr. Cronyn July 14 criticizing the deal.

Mr. Moog: Well I can't recall knowing anything about that at all.

Mr. Genest: That's not within Hydro. Is that within Hydro?

Mr. Shibley: Well it became within Hydro within weeks because then Smith spoke to Dillon who spoke to Seguin who got a letter, and so on - if I have to go through it all. I would like to know, Mr.

Mr. Moog: I knew nothing about that.

Mr. Shibley: You say you knew nothing about it.

Mr. Moog: Nothing whatsoever.

Mr. Shibley: You had ~~not~~ no communication from Candy to.

Mr. Moog: I had no idea that there was anything like that happening.

Mr. Shibley: Did you have any communication with anyone in the Premier's office during the spring of 1972?

Mr. Moog: I don't recall that. No.

~~Mr. Moog~~

H-1876-1 follows

Mr. Renwick: Mr. Chairman, could I interrupt Mr.

Now, that's the first point. The second point is that

Mr. Renwick: But it was inserted in chronological

Mr. Renwick: But it found its position in a file on which I understand --

Mr. Shibley: Yes, and it was on a sheet of paper between

Mr. Moog: ^{It was on the} Back of the specs, that's all.

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DT

Mr. Renwick: Well, all I'm saying is that the way it comes through to me is that the chronological order of it in the file, coupled with the lack of specific details as to what is in appendix B, if it had come to you from Mr. Candy at a later date and you were making notes of what he had called through to you on the phone, it would seem to me that these notes would be different.

Thirdly, my third problem, is that I can't conceive under what circumstances you would want to know this information about Hydro's scattered locations for your purposes. Now, as I understand it, what you are saying in response to all three of my problems with this document, is that it is undated and you don't know what the date is. That's correct?

Mr. Moog: I think I have given a more definite answer than that, Mr. Renwick.

Mr. Renwick: I don't want you to repeat unnecessarily, but can you tell us when these notes were made, specifically?

Mr. Moog: I have just said earlier my recollection is that these notes came about after the Hydro deal received criticism and it was in a phone conversation with Mr. Candy that I obtained some of those figures and scribbled them down on the papers which were on my desk, which happened to have been the specs of the building which I am sure were used quite ~~well~~ often in our dealing with the deal.

Mr. Renwick: Now then so far as my second problem with the document is, the chronological position of the document in the file, what --

Mr. Moog: It has nothing to do with this.

Mr. Renwick: It has nothing to do with it?

Mr. Moog: I wouldn't think at all.

Mr. Renwick: And --

(H-1877 to follow)



August 28, 1973
2:30 - 2:35 p.m.
B.G.

1877-1

(Mr. Renwick)

~~and the Hydro~~ your response to the third question then is, if I may summarize it, simply, that you needed this information because of criticism to Hydro.

Mr. Moog: I wanted to know from Hydro's point of view and we just talked about it, and I asked Mr. Candy, I said, "what are your benefits because you have often pressed us to go on with the job" and he said, "well, here is how we benefit". And he gave me some of those figures.

Mr. Renwick: Well, now if I may just dwell on that. Given the ~~case~~ coincidence of ~~some~~ what, four or five items between Exhibit 212 in your ~~handwritten~~ handwriting and Appendix B, why would there be discrepancies?

Mr. Moog: Mr. Renwick, to me it wasn't that important. I just took ~~down some~~ ^{down some} and that ~~were~~ ^{were} significant to me to realize that Hydro in effect did receive quite a benefit, by moving into this new building as soon as possible, because it did cost them a fair hunk of money. And whether that is out ten or twenty or fifty thousand dollars, really didn't matter to me.

Mr. Renwick: Well, I find problems reconciling \$725,000 per annum with ~~\$~~ \$687,000.

Mr. Moog: I obviously made a mistake. I didn't use it; it was for my own edification, and that's all.

Mr. Renwick: Well, I hope you'll appreciate my problem. There are always two problems when you are taking down information. ~~There~~ There is the problem of the coincidence of the accuracy of certain figures, and the other side of the coin is ~~the~~ the fact that other figures don't correspond.

Mr. Moog: I appreciate it; if this was to be used any place naturally I would have tried to obtain the more actual figure.

Mr. Renwick: And if Mr. Candy was calling to you to answer questions to you and was using Appendix B as the basis on which he would give the information, then the information, in my view, would have corresponded accurately.

Mr. Moog: Well, he perhaps didn't know that I was writing down when he talked to me, and that's why I used whatever was sitting on my desk to scribble it down.

Mr. Renwick: Right; now with respect to the - I questioned you about Exhibit 214 this morning, and I assume that there just wasn't any unusual circumstances that you were aware of affecting your request to Mr. Kelly to prepare this.

Mr. Moog: Not at all, Mr. Renwick.

Mr. Renwick: What I think I am trying to get clear in my own mind is the degree to which there was a flow of information on an interchange basis reciprocally between you and Mr. Candy over an extended period of time with respect to a lot of detailed information about the Hydro building.

Mr. Renwick:

Mr. Moog: Oh, there was nothing -/I want to be perfectly clear about it; there is nothing wrong about a flow of information.

Mr. Moog: I appreciate that, right.

Mr. Renwick: But it seems to me that you and Mr. Candy, from Hydro's point of view Mr. Candy almost exclusively, I gather from your organization yourself almost exclusively.

Mr. Moog: No, I wouldn't really put it that way, Mr. Renwick, no, in all due respect, I think ~~that~~ Mr. Candy did have discussions without architect; I think quite a few.

Mr. Renwick: Well, but with respect to the kind of information that related to whether or not the transaction was to be kept on the rails between Hydro and Canada Square, you conducted those discussions with Mr. ~~Candy~~ Candy.

Mr. Moog: But, whatever discussions were quoted, there were the ones I discussed with him, of course. And undertook with him. Yes, I am suppose I am the principal in this, there is no ~~was~~ question about that.

1877-3

August 28, 1973
2:30 - 2:35 p.m.
B.G.

Mr. Renwick: Perhaps you could respond to this, it comes through to me, looking back on all the evidence which we've heard since Mr. Candy's ~~first~~ initial contact with you in the summer of 1971, through until the spring or the late spring of 1972, that there was, in a business sense - a very close interchange of information, in other ~~words~~ words there was no inhibiting factors, if you wanted to get ahold of Mr. Candy, you called Mr. Candy, ~~if he wanted to get ahold of you, he called you, if he wanted to have a meeting with you.~~

(Tape 1878 follows)

August 28, 1973
2.35 - 2.40 p.m.
M.R.

(Mr. Renwick)

~~I presented to you a record of Mr. Candy you called Mr.~~

Candy. If he wanted to get ahold of you, he called you.

If he wanted to have a meeting with you, you would arrange to have a meeting. There were no inhibiting factors. Whenever the matter was coming to a point which required the resolution of some question ..

Mr. Moog: In most instances, Mr. Renwick. Sometimes ~~you~~ ^{he} wouldn't reply to a call. Sometimes I didn't get information just as I would have liked to have it but I would think, in general, it is correct what you are saying, yes.

Mr. Renwick: And that the person that if there were any questions which came up or any problems that arose that you wanted information on you would call him and on the other side of the coin, if matters related to this were to come up that he was concerned about, he would call you?

Mr. Moog: That is correct.

Mr. Renwick: And the other thing which has struck me so very much and I must say until Mr. Shibley raised it I hadn't noticed ~~the~~ - I didn't know where exhibit 154 came from, or else I had forgotten about it - Exhibit 154 - I was struck throughout all of these, when Hydro was being given and the exhibits were being filed, about ~~these~~ the similarity of much of the information from this document found its way into the language of Hydro documents, with minor grammatical change.

"The integrated team concept; the .."

Mr. Moog: It's summing up what we've always presented to Hydro, Mr. Renwick, in a - I think - more ^{concise} ~~precise~~ way, that's all it does.

We certainly *visited* —

Mr. Renwick: Well, I'm not asking ...

Mr. Moog: ... ~~through~~ Hydro very often that this is what we stand for, ~~that~~ ^{and} this is how our company operates.

August 28, 1973
2.35 - 2.40 p.m.
M.R.

Mr. Renwick: I'm only saying this to give you my impression, not because it ~~reflects~~ reflects on you as to what Hydro did with the information. The fact of the matter is that the language from that document found its way sequentially into a number of other Hydro documents.

The submission to the commission is ~~in June of 1972~~ in June or July of 1972, the "in-house capability" is the one phrase which ...

Mr. Moog: I think I have said that so often that _____

Mr. Renwick: Yes, and I say ...

Mr. Moog: ...and I said it here. It's a phrase I've used over many years because we have got that ~~service~~ service and we are proud about it.

Mr. Renwick: Perhaps I could do the semantic exercise of comparison at some time. I'm giving you my impression and don't need or expect a comment but I want you to understand the way I'm looking at ^{it} is that information from Exhibit 154 which as I understand it was prepared by you and Mr. Bradshaw, found its way into and was used in a ~~persuasive~~ persuasive sense in Hydro memoranda for the purpose of their decision-making process.

In other words, the very language which your firm uses for sales purposes, found its way in a sales manner into the Hydro documents.

And that seemed to me to indicate a pretty effective liaison between you and Mr. Candy.

Mr. Moog: I think I have covered a lot of those points in my first meeting with Mr. Candy.

Mr. Renwick: Well, they made a tremendous impact, I can say that.

Mr. Moog: I would hope so.

Mr. Renwick: Because I use "in-house capability" referring to my office upstairs because I don't have any in-house capability.

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2.35 - 2.40 p.m.
M.R.

(Mr. Renwick)

I wanted you to have my sensation of how all of this is coming through. I don't ~~want~~ want to either over-emphasis it or underestimate it but as a business relationship this could be classified as an ~~uninhibited~~ uninhibited free point of contact between you, for Canada, Sqaure, and Mr. Candy for Hydro.

W. * *Is this the time in the*
Mr. ~~W.~~ Hodgson: ~~meeting to come to~~ *start* ~~conclusions, Mr. Chairman?~~

Mr. Chairman: I don't think so yet.

W.
Mr. ~~W.~~ Hodgson: I was just wondering. Maybe we could all start.

Mr. Renwick: No, I carefully referred to these as impressions.

Well, as I said, I just wanted to impress my views, Mr. Chairman.

Mr. Chairman: Well, one of the words, ~~that~~, along that line, following Mr. Renwick - that you used this morning, "geographical scatter" ~~I think is your phraseology and I think that~~.

August 28, 1973
2.40-2.45 p.m.
M.F.

H - 1879 - 1

(Mr. Chairman)

~~Mr. Moog: I used this morning "geographical" and~~

I think is your phraseology, and I think that found its way into the Hydro document.

Mr. Moog: No, Mr. Chairman, I think that is the other way round.

Mr. Chairman: Well this morning I think -----

Mr. Moog: No, it was referred to in this document, with due respect, -----

Mr. Chairman: Well that could be.

Mr. Moog: One of them has it on there and I think I started it down when I heard it from Mr. Candy.

Mr. Chairman: But I think the first question that was asked was this your phraseology and I think you said yes.

Mr. Moog: No, was it my writing.

Mr. Shibley: No.

Mr. Moog: Or my phraseology I certainly thought was that what I wrote down, if I may just correct it that way. That is what I meant with that. I think that is the context that it came on in.

Mr. Chairman: Well all right, I think -----

Mr. Moog: I hope I haven't left the wrong impression there.

Mr. Chairman: Well you may be clarifying it now because I think this morning you said it was your phraseology, now you are saying -----

Mr. Moog: Well I hope I haven't left the wrong impression. I meant was that what I wrote down, and that is what I wrote down obviously.

Mr. Chairman: All right.

Mr. Shibley: Mr. Moog, you made your submission on January 24th, '72, and there was a lapse of time of some months which went by before the Commission actually passed upon a contract with your company. It didn't ultimately approve it until July 11.

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M.F.

H - 1879 - 2

Mr. Moog: That is correct.

Mr. Shibley: During that period of time were you not in regular communication with Mr. Candy to ascertain what was going on and why they weren't?

Mr. Moog: Quite frankly we often thought the deal just wouldn't go and it was just another one of those ^{ATTEMPTS.} ~~attempts~~. I don't think we were on any regular - I don't know what you call regular - we had contacts - you have got a record of Mr. Candy, you have got my record, we may have had a few more phone calls, that is possible, which are not recorded, but I do n't really consider that regular. We put our best foot forward and we thought well, hopefully, something will come out of it.

Mr. Shibley: Mr. Moog, just to carry forward - were you aware that when Hydro approved of the contract on July 19, that a press release was being prepared and was already in existence on July 21, 1972? Were you aware of that?

Mr. Moog: I can't recall whether I am or whether I am not. I was advised of this shortly afterwards. I don't know whether I was or not.

Mr. Shibley: On July 21 there was a press release, a draft, did you get a copy of that?

Mr. Moog: I don't recall having seen that.

Mr. Shibley: Well were you not taken into consultation about a press release to which your company was a party?

Mr. Moog: I don't know exactly what happened at that time, I just don't recall.

Mr. Renwick: What number was that release?

Mr. Shibley: I think it is exhibit 40, I am not sure,
Mr. Renwick.

Mr. Moog: It is possible there was discussion, Mr. Shibley, I just can't help you on that. *

Mr. Shibley: And have you any recollection with whom you discussed the draft press release?

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3.40-2.45 p.m.
M.F.

H - 1879 - 3

Mr. Moog: I haven't said I did.

Mr. Shibley: I know you didn't, but do you have any recollection?

Mr. Moog: No, I don't.

Mr. Shibley: All right. Exhibit 41, Mr. Renwick.

Now that press release never did issue and in fact the press release that did issue was delayed until August 25th, 1972. You are aware of that? I would ask Mr. Moore to alas give you the August 25th press release.

Mr. Moog: Oh that is Hydro's own press release. I wouldn't know anything about that.

Mr. Shibley: Would they not tell you they were going to issue a press release?

Mr. Moog: I just can't recall that there was any conversation about a press release.

Mr. Shibley: All right. Having regard for the kind of communications you were having with Hydro I would have thought it would be usual at least to tell you that "we are going to publish a release advising that you have been awarded the contract," it would be normal.

Mr. Moog: I ~~just know~~ ^{CAN'T TELL YOU} what happened within Hydro and I am sure that Hydro has different departments to deal with a press release than an architect who deals with a building.

Mr. Moog,
Mr. Shibley: I am only interested in knowing whether or not you were -----

Mr. Moog: I didn't know any more about that.

Mr. Shibley: I see. Were you talked to at all about the press release that was ultimately issued dated August 25th, exhibit 88?

Mr. Moog: I believe we had the newspapers call us.

Mr. Shibley: No, but I mean before it was issued, was it discussed with you?

Mr. Moog: Not to my recollection.

Mr. Shibley: You do n't recall?

August 28, 1973
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M.F.

H - 1879 - 4

Mr. Moog: I don't recall, no.

Mr. Shibley: Was any explanation ever given to you right up to the present time as to the reason for the ~~any delay~~ delay in issuing that press release?

Mr. Moog: No, sir.

Mr. Shibley: Were you at any time made aware that within the months in question, within the period in question, Ellis-Don were registering serious complaints about -----

Mr. Moog: I had no idea about that whatsoever.

~~Mr. Shibley: Well, just as that I am sure that you~~

Tape H - 1880 follows

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2:45 - 2:50 pm.
M.S.

~~Mr. Moog: I had no idea about that whatsoever.~~

Mr. Shibley: Well, just so that ^{I am sure} you know what

I'm talking about ---

Mr. Moog: Mr. Shibley, the first time I heard about that was in the newspapers and I think that should clear it up.

Mr. Shibley: I want your answer a matter of record against the background of the testimony, Mr. Moog. I want to know whether, and, if so, when, you became aware of the fact that sometime in July or earlier, Mr. Smith had complained about the mode in which ---

Mr. Moog: I was not aware of any such thing.

Mr. Shibley: And that Mr. Smith had written a letter to Mr. Cronyn registering his complaint.

Mr. Moog: I knew nothing about it.

Mr. Shibley: Did you hear that Mr. Smith had a meeting with Mr. Gathercole at the instance of Mr. Ernie Jackson on July 13?

Mr. Moog: I had no idea. I learned about that during these proceedings.

Mr. Shibley: Did you learn from anyone that Mr. Smith had complained to Mr. Dillon of Task Force Hydro?

Mr. Moog: I didn't even know Mr. Dillon.

Mr. Shibley: Did you know anyone in ~~any~~ Task Force Hydro?

Mr. Moog: At that time?

Mr. Shibley: Yes.

Mr. Moog: No, sir.

Mr. Shibley: Did you know Mr. Muncaster at that time?

Mr. Moog: I met Mr. Muncaster in his dealings with our company, regarding his company, Canadian Tire Corporation, much later in the game.

Mr. Finlayson: I'm wondering - the witness says he doesn't know anybody in Task Force Hydro. Is there a list of those people? Shouldn't he see the names? It may well be that by coincidence he might know them.

Mr. Moog: Well, not knowingly I don't.

Mr. Shibley: I'll have that list produced to the witness. But for the moment, when did you first establish any communication at all with Mr. Muncaster?

Mr. Moog: I believe -- I can get you a date on that, Mr. Shibley, rather than me guessing. But it was long after the deal with Hydro was ~~settled~~ *settled*.

Mr. Shibley: Well, it might relieve me of a lot of further questions if I could ---

Mr. Moog: I think I can get you a date for that.

Mr. Shibley: You had no dealings, had never met the man and so on?

Mr. Moog: Mr. Muncaster dealt with our Mr. Kennedy in our office, quite separately, completely separately from this Hydro transaction. And I met him in our office briefly, I believe - and I can check that - I believe it was late in 1972; and then I met him again in early 1973.

Mr. Shibley: The people who are on this list are: Mr. Muncaster, Mr. Gordon, Mr. Crothers, Mr. Dillon.

Mr. Moog: Which Mr. Crothers is that?

Mr. Shibley: H. A. Crothers, president of Crothers Limited.

Mr. Moog: I happen to know a Mr. Crothers ~~of Crothers Caterpillar Machinery~~ of Crothers Caterpillar Machinery, but I don't know whether that's the same one or not.

Mr. Finlayson: How do you spell it, please?

Mr. Shibley: H. A. Crothers. C-r-o-t-h-e-r-s.

Mr. Chairman: I believe it is the same one.

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MS.

(Mr. Chairman)

I'm not certain of that.

Mr. Moog: Well, I was on a board of trade trip with one Mr. Crothers. It could easily be the same one. I have not discussed the Hydro deal with him.

Mr. Chairman: I'm not certain, but I think it's the same man.

Mr. Shibley: Dr. J.K. Reynolds, A. Frame and R. V. Taylor.

Mr. Moog: I certainly haven't discussed the Hydro deal with any one of those gentlemen.

Mr. Shibley: Well, I'll explain to you why I'm asking you about this. And that is, I believe it was Mr. Seguin who said that at a Task Force Hydro meeting ---

Mr. Genest: No, no! -- I'm sorry to interrupt.

Mr. Shibley: At a Task Force Hydro meeting sometime in August of 1972, Mr. Dillon raised the Ellis-Dan complaint. That information never reached you from any source?

Mr. Moog: Never.

Mr. Genest: Mr. Shibley, I would appreciate your checking the transcript on that. I don't think that it was at a Task Force Hydro meeting. I don't think Mr. Seguin ~~was~~ participated in any Task Force Hydro meeting.

Mr. Shibley: I will do that, Mr. Genest, because my own memory ~~was~~ was vague on it. I had asked Mr. ~~Shibley~~ ^{Belg}.

Mr. Genest: I think you identified Mr. Dillon as a member or attached to Task Force Hydro, but I don't think it was a Task Force Hydro meeting. Mr. Dillon, you'll recall, was first with Task Force Hydro and then became attached to Hydro itself.

Mr. Shibley: All right. In any event, with all this activity, ~~if I may call it that, respecting the Ellis-Dan complaint.~~

Tape H 1881 follows

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DT

(Mr. Shibley)

~~as stated~~, if I may call it that, respecting the Ellis-Don complaint, that was taking place within Hydro during July and August, Mr. Moog.

Mr. Genest: I object to that statement, Mr. Shibley. There ^{is} ~~was~~ no evidence of any activity about an Ellis-Don ~~complaint~~ complaint in Hydro in July. There is evidence that Mr. Smith spoke to Mr. Dillon about who he should talk to about a meeting with Mr. Seguin and there is evidence of a letter to Mr. Seguin in August. I think the preface to your question mistates the evidence.

Mr. Shibley: All right, Mr. Genest. I am going to be very precise as to my ~~own~~ recollection of the evidence for everyone's benefit, because I think it is important. The evidence, as I remember it, is that Mr. Smith met with Mr. Gathercole on July 13th, having had such meeting arranged for him by Mr. Ernest Jackson, to whom he had spoken in terms of his own views as to the contract letting. Mr. Smith records that meeting in a letter to Mr. Cronyn on July 15th, wherein my memory is that he says: "he could hardly wait to get over with the meeting", and goes on to talk about what Joe Barnicke told him in terms of government work, etc.

My memory is that -- that letter, incidentally, was not produced by either Mr. Smith or Mr. Cronyn in the first instance -- my memory of the evidence, and that notwithstanding that Mr. Smith recalled the letter, but said he didn't think it added anything. My memory is that Mr. Smith then talked to Mr. Dillon of Task Force Hydro; that Mr. Dillon, in turn --

Mr. Genest: In August.

Mr. Shibley: In August of 1972. My memory is that having spoken with Mr. Dillon, Mr. Dillon spoke to Mr. Seguin who said he didn't want to meet with Smith; that Dillon then communicated the circumstance to Mr. Smith and I think he said something about writing to Seguin. My memory of the evidence is that Mr. Smith then wrote to Mr. Seguin by letter dated August 21, 1972, and my memory further is that throughout the period of this exchange that I have outlined, the draft press release of July 21 was not issued.

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DT

(Mr. Shibley)

but was ultimately issued on ~~the~~ August 25th. My further memory of the evidence is that on August 23, 1972¹ and I put this to you, Mr. Moog² on August 23, 1972, was when you first raised with Mr. Singer the question of his being retained by you on an on-going basis. Now, I want to know whether that retainer was in any way related to your being informed of any or all of the circumstances that I have just outlined to you?

Mr. Moog: I was never informed about any of those circumstances and the retainer had absolutely nothing to do with that.

Mr. Shibley: And is it similarly the case that in November of 1972 you knew nothing of the difficulties with Ellis-Don when you made firm that retainer with Mr. Singer?

Mr. Moog: I knew nothing until I read it in the newspaper.

Mr. Shibley: And when was that?

Mr. Moog: I don't know. Whenever the newspaper came out.

Mr. Shibley: You mean after Mr. Nixon tabled his questions in the House?

Mr. Moog: Well, I believe at one time ~~and~~ I was away but when it was in the newspaper, obviously I got to know about it.

Mr. Shibley: You say that you knew nothing about the problems of the Ellis-Don complaints until after you ~~read about it~~ in the newspaper?

Mr. Moog: That's right.

Mr. Shibley: Do you say you knew nothing about concern within Hydro or within government as to the mode in which Hydro ~~let~~ let this contract until you read about it in the newspaper?

Mr. Moog: That's my recollection.

Mr. Shibley: I want you to be clear on that.

Mr. Moog: I am trying to just figure out how this happened, but I certainly didn't know until there was ^{published} ~~any~~ on it.

Mr. Shibley: You heard from no one that there was

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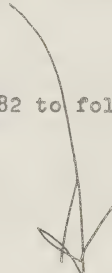
(Mr. Shibley)

difficulty --

Mr. Moog: I knew of no difficulty within Hydro or within the government at all. That, I want to make quite clear.

Mr. Shibley: And particularly in November, being the month in which you went firm on your retainer with Mr. Singer. Are you saying that you had not heard from anyone that there were difficulties, or contingent problems, referable to the manner in which Hydro had let that contract?

(H-1882 to follow)



H-1882-1

~~(In 1982-1983)~~

~~need one; that there were difficulties or contingent problems -
preferable to the manner in which Hydro had had that contact?~~

Mr. Moog: To the best of my recollection; no.

Mr. Shibley: And the first you knew of it was when you read it in the press.

Mr. Moog: I believe that is correct.

While

Mr. Shibley: ~~Wait~~ you are in the witness box, Mr. Moog,

I'm going to put this to you; that Mr. Singer called you about a pending press investigation.

Mr. Moog: Mr. Singer called me about having had somebody from the press talk to him, that is all he said to me.

Mr. Shibley: Yes. That is all he said to you?

Mr. Moog: That is all he said to me.

Mr. Shibley: And do you remember when that was?

Mr. Moog: Well Mr. Singer might have a better recollection of it than I, but I know that he called me and said that somebody from the press called about the Hydro deal. And all I answered is I said "Well, it is a very good deal". So that's all.

Mr. Shibley: Mr. Moog, you are not answering my question. I want to know when you first heard from Mr. Singer of any inquiries by anyone from the press.

Mr. Moog: I heard about somebody wanting to write about the Hydrodeal. That is all Mr. Singer said to me about it. I don't call that an investigation or anything else.

Mr. Shibley: All right. When was that?

Mr. Moog: Whenever he called me. I don't know when that was. Whenever Mr. Singer ~~says~~ said, I suppose, he keeps a better record.

Mr. Shibley: Was it before or after your retainer in November 1972?

Mr. Moog: I can't tell you. Mr. Singer probably gave you the dates, and whatever his dates are I don't have any reason to question it.

Mr. Shibley: I want to ask you Mr. Moog; in terms of the retainer of Mr. Singer that you first raised with him in August - he said on August 23, 1972 - and which you apparently made firm with

H-1882-2

(Mr. Shibley)

him in November of 1972, that particular retainer of \$25,000 per year was the first retainer where you were paying him monies in advance so to speak for services yet to be performed. Is that not so?

Mr. Moog: Well I don't know whether you would call it ~~advance~~ ^{MONEYS} in advance. I think Mr. Singer was expected to do ~~extra~~ services during the coming year.

Mr. Shibley: Yes.

Mr. Moog: And rather than having a separate bill come up every time I thought through a retainer I would get certain privileges from him on his time which I might otherwise might have difficulties getting. Therefore we agreed. He mentioned the figure and I agreed to that figure.

Mr. Shibley: Yes. There wasn't even any debate about it.

Mr. Moog: Well I thought it was a pretty good buy on our part to get the knowledge of a lawyer on municipal affairs; to have him on first call so to say.

Mr. Shibley: At the time Mr. Singer gave his evidence you had yet to pay his third account. Have you paid it yet?

Mr. Moog: I will have to check that with my office.

Mr. Shibley: Would you do so and let us know that tomorrow?

Mr. Moog: All right.

Mr. Shibley: In any event, since he has been on this retainer of \$6,250 quarterly; is he still on the retainer?

Mr. Moog: Yes he is.

Mr. Shibley: Has he in fact performed \$18,750 worth of work since November of 1972?

Mr. Moog: That is a good question. I couldn't answer that without checking to see how meetings he participated in and what he has done on his side. I made it quite clear to him that during my absence, and I told him also in the beginning that I would be absent occasionally from this city, that I wanted him to carry the ball and do whatever was necessary. So I really haven't ~~at~~ sat down with him to see what he has done and what he hasn't done. I would hope he has.

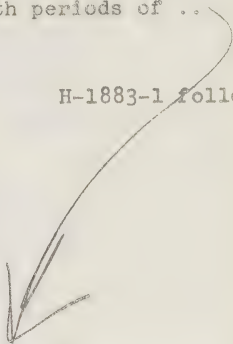
H01882-3

Mr. Shibley: Now Mr. Moog it is very clear that the retainer of Mr. Singer did not in fact influence his approach to the problem with which this committee is concerned. What I am interested in knowing - and I must ask you this very frankly and directly - I want to know from you whether your retainer was an attempt to influence Mr. Singer respecting the position and posture he might adopt about the letting of the Ontario Hydro building to Canada Square?

Mr. Moog: Not at all.

Mr. Shibley: And again, if it happens that your discussions with him in respect to the retainer coincide with periods of ..

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(Mr. Shibley)

~~... to the retention coincide with periods of~~ - within which time, the evidence will speak for itself as to what was happening. That's pure coincidence.

Mr. Moog: Mr. Shibley, you can always try to make some ^{THING} coincide if you really try hard enough. It had nothing to do with it whatsoever.

Mr. Shibley: I started to ask you whether in the spring of 1972 you had had any communication with anyone in the Premier's office? I'd like to get back to that.

Mr. Moog: When was that again?

Mr. Shibley: Well let's talk about the spring of 1972, the period - I'd like you to cover April, May, June and July of 1972.

Mr. Moog: Maybe I can have a look at ...

Mr. Finlayson: If you would just excuse us Mr. Shibley, while ...

Mr. Shibley: While your counsel is ferreting that out, one question I overlooked ~~ask~~ asking you, Mr. Moog, the copy of the letter from Mr. Gathercole to the Premier, which was dated April 25th, I believe, 1973, and which was tabled in the House, had endorsed on it, the copy in your file had endorsed on it, "Copy received from V. Singer".

Mr. Moog: Right.

Mr. Shibley: Who made that endorsement on that copy?

Mr. Moog: I don't have it here but it would probably be my assistant.

Mr. Shibley: And when was it made?

Mr. Moog: I suppose when we received it.

Mr. Shibley: Why was it made?

Mr. Moog: As a matter of course, I ^{SUPPOSE} ~~suppose~~.

Mr. Shibley: Well, do you do that with all documents that you receive just as a matter of course?

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Mr. Moog: I think whenever there is a reason for a document lying around and my assistant's ^{SEES} ~~was~~ it and feels it should be put on, then it is put on.

Mr. Shibley: And, again, this is the same - when you talk about your assistant, you are talking about Mrs. Smith, are you?

Mr. Moog: That's right.

Mr. Shibley: So you are saying that it was a notation she put on it contemporaneous with its receipt?

Mr. Moog: I would think so, yes.

Mr. Shibley: Not later?

Mr. Moog: No. I wouldn't think so.

Mr. Shibley: You wouldn't think so?

Mr. Moog: I wouldn't think so.

Mr. Deans: Was there a covering letter?

Mr. Shibley: The evidence of Mr. Singer was that he called and a taxi was sent, I think, to get it.

Mr. Moog: I think that is correct.

Mr. Shibley: There wasn't a covering letter, was there?

Mr. Moog: No.

Mr. Finlayson: What are the first dates that you asked about?

Mr. Shibley: I want to cover the period April, May, June and July of - April, May, June, July and August of 1972.

Mr. Moog: I have a note here May 4th, 1972 and it states Westcott - apparently it's a follow-up. It says Westcott again on the next day and on the next - on the ...

Mr. Shibley: Well, would you please take it more slowly. I want you to provide to this committee precisely the communications you had with Mr. Clair Westcott² within that period of time.

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H-1064-1

(Mr. Shibley)

communications you had with Mr. Claude Westcott within that period of time.

Mr. Moog: It looks to me as if I tried to get him by phone or he tried to get me by phone. I don't know whether I spoke to him or not.

Mr. Shibley: Would you give us those dates, please?

Mr. Moog: May 4th, 1972.

Mr. Shibley: Did you not also have a notation of May 2nd, 1972?

Mr. Moog: Just a moment, I might have overlooked that. That is struck out, so I don't think it took place.

Mr. Shibley: But there was an entry?

Mr. Moog: There was an entry, that's ~~xxx~~ right.

I'm sorry.

Mr. Shibley: On May 2nd?

Mr. Moog: Yes, that's right.

Mr. Shibley: And then another one on May 4th.

Mr. Moog: Right.

Mr. Shibley: And let's just get the dates for the moment please. What else? What other dates?

Mr. Moog: Just 21st, 1972, and June 22nd.

Mr. Bullbrook: Is this all Westcott?

x Mr. Shibley: Yes.

Mr. Moog: That's the name, Westcott. Somehow or other we tried to talk to each other but whether we did or didn't I don't know. I did ask him and he can't recall.

Mr. Shibley: For the moment, I just want to get the dates, please, Mr. Moog.

Mr. Moog: Yes, those are the dates.

Mr. Shibley: Those are the four dates.

Mr. Moog: Right.

Mr. Shibley: Now, these are ~~xxxx~~ dates....

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Mr. Moog: Do you want me to go ^Tthrough until August?

Mr. Shibley: Yes, please.

Mr. Moog: That seems to be it.

Mr. Shibley: All right. Now, did you have any meetings with Mr. Westcott during the months I have mentioned?

Mr. Moog: I don't recall.

Mr. Shibley: Did you have any correspondence with Mr. Westcott during that period?

Mr. Moog: No, sir.

Mr. Shibley: All right. These were dates on which you have notes of either actual or attempted phone communication.

Mr. Moog: That's right.

Mr. Shibley: On May 2nd, did you have a phone discussion with him?

Mr. Moog: I cannot recall.

Mr. Shibley: Did you have one on the 4th?

Mr. Moog: I just can't recall whether I had any, or whether I was just trying to get him and for what reason I just can't recall.

Mr. Shibley: That was going to be my question. What was the reason why you were attempting to communicate with Mr. Westcott during the month of May and during the latter part of June, 1972?

Mr. Moog: I called Mr. Westcott; I asked him whether we talked. He can't recall. I know at one time I think the Premier was sick, and I don't know whether that was in this period or another period where his ~~name~~ name appears, and I wanted to find out what was wrong with him, but ^I I just don't know. It certainly, if the question is, "Had it anything to do with Hydro?", to make that short, it had nothing whatsoever to do with Hydro. I never discussed Hydro with Mr. Westcott. Nor any of the involvements concerning Hydro, or what happened, or what didn't happen. None whatsoever.

Mr. Shibley: Would you have any reason to communicate with Mr. Westcott?

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Mr. Moog: I have known Mr. Westcott for many years and I don't know why I called him.

Mr. Shibley: Well, what function does Mr. Westcott ~~have~~ fulfil in the Premier's office?

Mr. Moog: I don't even know that for sure right now.

Mr. Bullbrook: Did you deal with Mr. Westcott during the currency of your construction of the OISE building?

Mr. Moog: I don't think so.

Mr. Renwick: Mr. Chairman, did Mr. Moog meet Mr. Westcott through Mr. Davis?

Mr. Moog: Yes, I did.

Mr. Bullbrook: I'm sorry, I just wondered whether that was the beginning of your association with Mr. Westcott.

Mr. Moog: Yes, I met him through Mr. Davis. At one time he considered quitting the government and working as a public relations man. I remember that so that is -- I met him ~~occasionally~~ occasionally, yes.

Mr. Shibley: I must tell the committee that, again for the record, I would like somebody to establish -- I have asked you what function Mr. Westcott fulfilled, and you have mentioned the ~~public~~ public relations aspect.

Mr. Walker: ~~That was~~ public relations related to a job he was thinking of taking.

Mr. Shibley: I see, yes. But I was thinking of another conversation, quite frankly. But leaving that, I am concerned to know, as a matter of record of the evidence before this committee, if it can be established quickly, what function Mr. Westcott fulfils in the Premier's office.

Mr. Moog: I couldn't help you with that; I really don't know but maybe somebody else does.

Mr. Renwick: Mr. Chairman, could I ask Mr. Moog when he met Mr. Westcott through Mr. Davis, did ^{you} ~~he~~ at that time, quite a long time ago, did ^{you} ~~he~~ know what relationship ~~was~~ there

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H-1885-1

(Mr. Renwick)

~~quite a long time ago. Did you know what relationship there~~
was between Mr. Davis and Mr. Westcott at that point?

Mr. Moog^{Moog}: He just seemed to be one of the aides of Mr. Davis at that time. I really couldn't tell you what his position is now, I just don't know.

Mr. Renwick: Apart from his position, what do you know about the closeness of his relationship to Mr. Davis?

Mr. Moog: I couldn't help you, I just can't help you on that one.

Mr. Bullbrook: May I ask, would it be unusual for you because of your friendship with the Premier to communicate with Mr. Westcott with respect to perhaps social occasions, liaison with the Premier through him?

Mr. Moog: If we had^a dinner together or so, it would be possible I think in years past, yes, I think we might have had a lunch or dinner together.

Mr. Bullbrook: I'm not talking about^{with} Mr. Westcott, I am just trying to - it would seem to me that he might - had you developed a rapport with Mr. Westcott whereby you communicated with him in connection with communications, social or otherwise, with Mr. Davis?

Mr. Moog: Well, he has been at my house ---

Mr. Bullbrook: It might be a normal thing for you to do.

Mr. Moog: Yes, I just don't know what we discussed or whether we even talked, I just can't help you.

Mr. Renwick: I take it, Mr. Chairman, that Mr. Moog's evidence is that he recalls nothing of the circumstances of the telephone calls on May 2nd and May the 4th or attempted telephone

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H-1885-2

(Mr. Renwick)

calls, or of the telephone calls on June 21st or June the 22nd and that ~~has~~ you have spoken with Mr. Westcott to endeavour to refresh your memory ----

Mr. Moog: Right, and he didn't' ---

Mr. Renwick: And you haven't been able to use that method of ~~was~~ refreshing ---

Mr. Moog: He doesn't know even whether we talked or not and nor do I.

Mr. Renwick: Well, I want to put it, it is not a matter of evidence but certainly from the point of view of those of us in the Legislature, ^{it has} ~~is~~ been our assessment, ^{I SAY} sorry, ^{my} assessment, commonly held by those of us who have been in the Legislature for a period of time, is that Mr. Clare Westcott was formally the executive assistant to Premier Davis when he was Minister of Education for a ~~long~~ long period of time, but that for practical purposes he was his closest confidential political advisor and that he could be considered to be the alter ego of Premier Davis?

Mr. Moog: Well, that is your assessment, Mr. Renwick, I really can't help you on that.

Mr. Renwick: You would have no knowledge ---

Mr. Moog: I don't know how high he rates in the ranks, no.

Mr. Renwick: Bgt you knew he wasn't a casual acquaintance?

Mr. Moog: Oh, he was with Mr. Davis quite frequently, yes, I agree with you on that.

Mr. Renwick: Do you recall any other occasions during 1972 or 1971 when you would have telephoned or tried to contact

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(Mr. Renwick)

Mr. Westcott?

Mr. Moog: Not offhand I don't think that ^I had anything to do with ~~him~~ HIM.

Mr. Renwick: And despite the fact that on May 2nd and 4th and June 21st and 22nd ~~was~~ it doesn't recall anything to your mind ---

Mr. Moog: I just don't know what happened then, I am sorry.

Mr. W. Hodgson: But you are sure it had nothing to do with Hydro?

Mr. Moog: I am absolutely sure about that, quite.

Mr. Deans: How can you be absolutely sure ~~about~~ if you didn't recall ---

Mr. Moog: Because then I would have known that I wanted to ask ~~him~~ him something about it, then I would have persisted in meeting with him or something.

Mr. Deans: I may sound awfully obtuse but how can you be absolutely sure what you didn't talk about if you don't know what you talked about?

Mr. Moog: Mr. Deans, I know for sure that my Hydro dealings were conducted with Mr. Candy.

Mr. Bullbrook: I want to say that I accept that. Really, if he had talked about Hydro he is saying in effect that he would have recalled talking about Hydro.

Mr. Deans: That's right.

Mr. Bullbrook: But he can't recall exactly what he talked about. I really don't think they are mutually exclusive.

Mr. Renwick: But the one doesn't rule out the other.

~~Mr. X~~

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Mr. Bullbrook: It depends on whether you accept the evidence ~~is~~ given directly, he says he didn't talk about Hydro.

Mr. Deans: That's right, I accept the fact he said he didn't talk about Hydro, I am just saying how you can recall so vividly ---

Mr. Moog: I ~~was~~ just know I didn't talk to him about Hydro.

Mr. Chairman: Mr. Brian Armstrong, could you give us briefly as of May of '72 what Mr. Westcott's official position was?

~~Mr. Benwick: Who is Mr. Brian Armstrong -- no --~~

~~Mr. Chairman: Well, I just thought it might ~~xxxx~~ help ~~xxxx~~ if you want to clear it up~~

(Tape 1886 follows)

H-1886-1

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B.G.

(Mr. MacBeth)

...that the official position was.

Mr. Henderson: Wait a minute; Mister who?

Mr. Renwick: Brian Armstrong; who's Mr. Brian Armstrong?

Mr. Chairman: Well, I just thought it might help if you want to clear it up.

AN HON. MEMBER: Would you come forward please.

Mr. Chairman: All right, I gather -

Mr. Renwick: What are his credentials?

Mr. Chairman: Why?

Mr. ~~Chairman~~ AGENT: He might be in the know.

Mr. Chairman: If you really wanted to know what Mr. Westcott's official position was in May 1972, I thought Mr. Armstrong might help you. You put your interpretation on record, Mr. Renwick; it's not mine, I don't really know what his position was in May 1972.

Mr. Renwick: I had to give mine under oath.

Mr. Chairman: As of May 1972?

Mr. ~~Renwick~~ Renwick: As of May 1972 with respect to the confidential political confidence between Mr. DAVIS and Mr. Westcott^t and as to him continuing to be, and having been, over many years, the alter ego of the Premier.

Mr. ~~Chairman~~ Chairman: Well, as I say, I don't know that, but -

AN HON. MEMBER: WELL, WE WOULDN'T ACKNOWLEDGE THAT.
Mr. Renwick: As I say, I offered to give it under oath.

MR DEANS: It always surprises me, the things you don't acknowledge.

Mr. Bullbrook: I think we're going to get this ~~info~~ information. I believe that's Mr. Brian Armstrong.

Mr. Deans: I ~~am~~ wondered why he was sitting there. I have seen him around often.

AN HON. MEMBER:
MR DEANS: [^] waiting for this moment.

Mr. Shibley: I am really not sure that the Chairman didn't have a good idea in having Brian Armstrong -

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B.G.

Mr. Chairman: Trying to give me some credit or something.

Mr. Shibley: - make clear what the ~~is~~ situation is respecting the functions of Mr. What's-His-Name.

AN HON. MEMBER: Is it Westcott?

Mr. Deans: That's what

Mr. Chairman: Mr. Armstrong, I JUST THOUGHT that, do you -

Mr. Armstrong: Mr. Chairman, I just ~~indicated~~ indicated to Mr. Shibley I am ~~now~~ prepared to be as helpful as I can. Mr. Westcott, as far as I am aware, was then and is now the ~~Executive~~ Premier's executive assistant. He has that title. He is the person who is responsible for dealing with all of the constituency matters in the Premier's constituency that are brought to the attention of our office; and he also is in charge of administering a fairly sizeable correspondence ~~section~~ section in our office which is responsible for ~~the~~ answering all the mail, and that's, really what he does.

Mr. Chairman: Thank you very much .

Mr. Renwick : Perhaps I could ask Mr. Armstrong a question, Mr. Chairman? Would you say that Mr. Westcott deals with matters of political sensitivity that come before the Premier, ~~or~~ rather than the formal matters of his constituency problems and mail clerk?

Mr. Armstrong: I guess everyone with his degree of a, authority in the office would, Mr. Renwick. But I am really not, I would say yes.

Mr. Renwick: Would you have - apart from the formal ~~was~~ relationship, Mr. Armstrong, how would you categorize the relationship as a political advisor of Mr. Westcott to Mr. Davis?

Mr. Armstrong: I don't think I can characterize that ~~relationship~~ relationship.

Mr. Renwick: If any of my colleagues felt that ~~this fact~~ was not relevant, I consider it to be significantly relevant ~~because~~ ^{because} of, and if necessary, Mr. Westcott can come and give his evidence about the matter, ~~because~~ because there is no question in my mind that, and I impute nothing to it, every Premier and

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(Mr. Renwick)

every leader of every political party has somebody who is a close political confidante, a close ~~★~~ advisor, and an alter ego, and I think that's true of every political leader in the Province of Ontario, and there is no conclusion to be drawn from it, but there is such a person, and I am satisfied that in the Government of the Province of Ontario it is Mr. Westcott, and has been for a long number of years. And I think that it's most important, Mr. Chairman, I don't know what counsel's view is, but I would think that Mr. Westcott should come before the committee and ^{answer} ~~the~~ questions with respect to what his knowledge or recollection of these telephone calls.

Mr. Shibley: Well, unfortunately, Mr. Moog himself couldn't provide that information. It would have avoided the need to call Mr Westcott. I will now consider Mr. Renwick's suggestions that Mr. Westcott be called. But, at the moment I would like to get on with completing Mr. Moog's evidence.

↓

(Tape H-18867 follows)

August 28, 1973
3.20-3.25 p.m.
M.F.

H - 1887 - 1

~~(Mr. Shibley)~~
~~he added at the moment I would like to get on with~~
~~completing Mr. Moog's evidence.~~

Mr. W. Newman: Mr. Shibley, may we consider that you might like to talk to him first.

Mr. Shibley: Of course.

Mr. W. Newman: So that we don't get too many -----

Mr. Shibley: That's providing nobody objects to my talking to him.

Mr. Renwick: Mr. Chairman, I would like to suggest that counsel use the normal procedures in discussing, speaking, with any witness to determine the question, in counsel's judgment, of the relevancies of the matters which he ^{could} communicate to the committee.

Mr. Chairman: I think that is reasonable.

Mr. Shibley: Thank you.

Mr. Bullbrook: I want to ask a question that I consider very probative. Did you ~~have~~ ever have any dealings with Mr. Wescott at all in connection with the OISE building?

Mr. Moog: No, sir.

Mr. Shibley: Mr. Moog, you have said that you hadn't any knowledge of the possible criticism of how this contract was let until it was published in the press. I am going to produce to you a sheet with a list of officers of your various companies. That was prepared by your office, was it not?

Mr. Moog: That is correct.

Mr. Shibley: In deference to Mr. Bullbrook's complaint of many weeks ago I will wait till he gets his copy before we deal with it.

Mr. Chairman: Sometime, Mr. Moore, you might try going clockwise.

Mr. Bullbrook: I think this information has already been tabled in the House if I recall correctly.

H - 1887 - 2

Mr. Shibley: Well what is of interest on this document, Mr. Moog, is that at the bottom right hand corner ~~is~~ is the endorsed notation: "Copy to K. H. Candy, October 2nd, 1972".

Mr. Moog: That is right.

Mr. Shibley: Now would you please give your explanation as to the circumstances surrounding the remitting of this ^{list} to Mr. Candy?

Mr. Chairman: First let me mark it as exhibit 216.

Mr. Moog: As I recall ~~and~~ ^{he} requested the information and we gave it to him.

Mr. Shibley: Yes. Were you aware that - you now know, of course, there is a memorandum dated October 2nd among the documents produced by Hydro saying in light of the matters raised by Mr. Seguin at an earlier meeting of the Commission, we should prepare a rationale. That memorandum was dated October 2nd, 1972. Now when Mr. Candy was provided with this list on October 2nd, 1972, did he give you any indication at that time as to the purpose for which he was requesting the breakdown of the people involved in the various companies?

Mr. Moog: No, sir.

Mr. Shibley: You had a meeting with Mr. Candy on October 2nd, 1972, Mr. Moog. Mr. Candy's diary, I might say, indicates that he has got a note: "Nine o'clock go to Moog's office re head office, HQ building design"; but he appears to have met with you on that morning?

Mr. Moog: In the chronology I have here it says late September and early October, meetings in late September and early October, '72, that included such people as Candy, Bradshaw, Moog and Coles; ^{which} At ~~this~~ time the agreement was finalized.


Mr. Shibley: Well I have shown you exhibit 216 because it seems to establish that on October 2, 1972, - and I refer the committee members and yourself to exhibit 91 - on October 2nd, Mr. Gordon memoed Mr. Gathercole, ["] following Roger Seguin's

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M.F.

H - 1887 - 3

(Mr. Shibley)

comments at a recent Commission meeting;

MI suggested to Henry Sissons that we should prepare
a brief, -----


Tape H - 1888 follows

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DT

(Mr. Shibley)

~~at a recent Commission meeting~~, I suggested to Henry Sissons that ~~we should prepare a brief~~ effective statement on the rationale for Ontario Hydro's action with respect to the construction of its new office building. The idea was that we should use this if the new building became an issue in the newspapers. Now, again against the background of this sort of thing that was happening in evidence and I have outlined it and I don't want to give it any character except to say to say I call it activities, if you like, that were going on in July and August, and there was a meeting on September 1, at which Mr. Seguin raised the matter of the letter he had received from Mr. Smith, and on October 2, within Hydro, they were saying they should ~~pay~~ prepare a rationale.

Are you telling us that Mr. Candy did not tell you of the complaints of Ellis-Don and the difficulties that were ~~threatened~~ threatened as a result thereof?

Mr. Moog: Never heard of it before.

Mr. Shibley: And that--

Mr. Moog: He did not.

Mr. Shibley: And so the reason for requesting this breakout of your company's and the percentage interest -- I gather those percentages are share interests?

Mr. Moog: That's correct.

Mr. Shibley: Is that correct?

Mr. Moog: That's right.

Mr. Shibley: That the reason he requested that was never made known to you ?

Mr. Moog: I didn't know what he wanted it for.

Mr. Shibley: I see.

Mr. Genest: Are you off that line of questioning, Mr. Shibley, because I think I can help? I am told by Mr. McCallum that Mr. McCallum asked Mr. Candy to obtain that, to find out exactly who was ^{behind} ~~buying~~ Canada Square. This request emanated from Mr. McCallum.

Mr. Shibley: Well, in that respect, I gather that there was some interest, Mr. Moog, in regard to the financial abilities of your company to carry out its obligations under the terms of this

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(Mr. Shibley)

contract. Is that correct?

Mr. Moog: Could have easily been the reason for this request, yes.

Mr. Shibley: And it is a fact that there is no performance or material supply bond provided in connection with this contract?

Mr. Moog: That's right.

Mr. Shibley: So that the ~~commitments~~ ^{commitments} of Canada Square, so to speak, turn wholly upon its own capabilities to perform this contract?

Mr. Moog: ^{Plus} ~~Just~~ \$2 million front money.

Mr. Shibley: That's right.

Mr. Moog: Right.

Mr. Shibley: The only arrangement made in that respect being that Canada Square under the contract would expend \$2 million of its own funds and that so far as interim financing is concerned, financing that you would be carrying on right now, interim financing pending completion of the building, that you could charge or encumber the building to the extent of the ~~the~~ value of the material and work done on the building, less \$2 million. Is that correct?

Mr. Moog: Well, just to give you what ~~was~~ we are doing, rather than what the minimum is ^{that} we have to do, I would just like to elaborate a bit on that. We have ~~agreed~~ ^{that} with Hydro, and that was negotiated between Mr. McCallum's firm, Mr. Candy and ourselves, to put \$2 million front money up and we have also told Hydro that we would then use up our liquid funds which are available and have been made available for this job since we do not engage in any other job at this time and have told Hydro so, and we do not intend to do otherwise, to the extent of ~~some~~ an additional \$4 million which will be put into this project, so in effect you ~~are~~ will have approximately \$6 million of our own money before we go out and borrow from the bank. Those are the facts.

Mr. Shibley: Now then, in order to satisfy Hydro however you did get a letter from the Bank of Montreal which is dated July 17, 1972, exhibit 112. It is - I think - the last page of that

H-1888-3

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(Mr. Shibley)

exhibit, and in this letter the bank directed the letter to Mr.
Candy. In the second paragraph: "From financial information
on file" ~~I am sorry, Mr. Moon, if you haven't got it yet --~~

(H-1889 to follow)

H-1889-1

(Mr. Shibley)

~~Paragraph~~

~~"From financial information on file..."~~

I'm sorry, Mr. Moog, if you haven't got it yet, I'll wait.

Mr. Moog: Yes.

Mr. Shibley: "We know that the Canada Square group of companies represents substantial worth in equities, in revenue producing real estate. Last financial statements indicate a stated worth in excess of \$25 million. We are informed once recent statements are completed, including in particular the assets of Phase 2 Canada Square, we believe the stated worth to be considerably over \$30 million.." and so on.

Now was that letter similarly produced... Well it was sent to Hydro.

Mr. Moog: That was given to Hydro, yes.

Mr. Shibley: And that was to show ~~the~~ financial responsibility on the part of Canada Square. Is that correct?

Mr. Moog: That is correct.

Mr. Shibley: Isn't it a fact, Mr. Moog, that as at the time of entering into this contract with Hydro that Canada Square was a shall corporation without any other assets whatsoever?

Mr. Moog: This is why we told Hydro we would make \$2 million front money available, and that is why I have just now said that we would also clear sufficient liquid funds to make sure that Hydro doesn't have anything to worry about as far as the project is concerned. And that is what we have done and we have told Mr. Candy that, and that is exactly what we are doing. Let me explain the whole financial issue, then we can avoid an awful lot of questioning again. If you do one project at a time, and you use your financial resources for that one project there really is hardly any appreciable risk on the other party as to the fulfilment of the contract. And that is exactly what we told Hydro: "We will make our resources available, financially, people wise, effort wise, for your project." And that is what we are doing. And that saves Hydro the cost of a performance bond. That is why there isn't a performance bond. In our opinion

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(Mr. Moog)

quite unnecessary.

Mr. Shibley: But Mr. Moog, you are not answering the question I've put to you. I understand__

Mr. Moog: Canada Square had no particular assets. That is true.

Mr. Shibley: Yes. That, in fact, Canada Square__

Mr. Moog: ~~But~~ it wasn't just Canada Square they were dealing with. We made it clear to them that we would put right away \$2 million up which could not be touched and which would go in as front money into this project.

Mr. Shibley: I understand that.

Mr. Moog: Before we even put the shovel in the ground.

Mr. Shibley: I understand that.

Mr. Moog: And we further said that we would make the other liquid funds available ~~to~~ to go into that project and not engage in any other project, which amount^{ed} to something in excess of \$4 million in addition to the \$2 million.

Mr. Shibley: Well, I have seen no evidence of that, ~~Mr. Moog~~.

Mr. Moog: Well, that is the way we operate.

Mr. Shibley: I must tell you that as far as my own investigation is concerned I have only ascertained that the only assets of Canada Square that are available to back^{up} stop its commitments respecting this contract is the commitment you mentioned; that is, to put up the first \$2 million worth of work and material, and that interim financing thereafter is to be limited in an amount to the cost of whatever is installed, less \$2 million. But so far as Canada Square having other assets ~~anxxx~~ is concerned, it will own and operate the Ontario Hydro building and no other asset is owned. It has not other funds. It owns no other property. Until this transaction was entered into it is what we call a shall corporation.

Mr. Moog: It has the back up of all its associated companies. And I think that is important to know.

Mr. Shibley: Was the covenant of any... When you say "the back up," I gather this is a company which is wholly owned by

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(Mr. Shibley)

Yonge-Eglinton Building Ltd. Is that correct?

Mr. Moog: That's right. ~~Exactly~~ *Yes*.

Mr. Shibley: The covenant of Yonge-Eglinton Building Ltd. was not given as any part of this transaction.

Mr. Moog: Not as part of the contract itself, but we certainly would have to make the money available to Canada Square out of our other companies.

Mr. Shibley: Why?

Mr. Moog: Well, ~~there~~ *how else would* Canada Square get the money?

Mr. Shibley: You are saying you would do it, but there is ~~not~~ no obligation in law to do it.

Mr. Moog: We have made ^{the} commitment that we will make the \$2 million available, and we did do that and we have made a further commitment and we are making it ~~right~~ *right* now, if you wish, that we will make the other funds available. But we ~~do~~ certainly stated to Hydro.

Mr. Shibley: I'd like to know about these other funds, because it is the first I have heard of it. Are you telling me there is another commitment that is pending? *Whereby* —

Mr. Moog: That's between our own companies to Canada Square

Mr. Shibley: I see.

Mr. Moog: You see, it is much better for us to use our funds ~~in~~ *on* our own projects. That is the way we operate.

Mr. Shibley: This is an inter company transaction.

Mr. Moog: It is an inter company affair, yes.

Mr. Shibley: But you have ~~not~~ no obligation ~~to~~ *of* Hydro ~~and~~ *in* that respect. Is that correct?

Mr. Moog: No, ~~we had~~ *written* no obligation ~~no~~.

Mr. Shibley: So that whatever may have been the content of the letter from the Bank of Montreal as to \$25 and \$30 million, in fact as at the time of the making of the contract, Canada Square, as an individual corporation, ~~was~~

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M.R.

(Mr. Shibley)

~~... Fact as at the time of the making of the contract Canada Square, as an individual corporation, had no assets whatever?~~

Mr. Moog: Mr. Shibley, it's our group of companies which is acting right now to put up the Hydro building and Canada Square is the company under which it is registered, yes. But I don't want to again have this publicity that there are no assets, because there are assets. These are being made available.

Mr. Bullbrook: May I ask a question? Maybe Mr. McCallum can help me in this respect also. Do I understand that the purpose, Mr. McCallum, I'd like you to help too, if you can: That the purpose of the front money is to assure that within a statutory lien period, there are never payables outstanding in excess of the \$2 million?

Mr. McCallum: No.

Mr. Finlayson: No; as I understand it, the object in having the front money is that it cannot be charged by any creditor including the bank, so that if at some stage in the proceedings they - Canada Square were unable to complete the project, then ...

Mr. Bullbrook: There would be \$2 million worth of equity there ...

Mr. Finlayson: There would be \$2 million which was unencumbered ..

Mr. Bullbrook: Right.

Mr. Finlayson: Plus the value of the material and equipment put into the building, and the difficulty is, of course, that ...

Mr. Bullbrook: Plus, Mr. Finlayson?

Mr. Finlayson: Yes, that's right. Because, you see, let's say that in total there was \$12 million worth of plant ^{now} equipment put in to the building, for interim financing purposes only 10 could be charged, so that when Hydro takes over they take over \$12 million worth of building and equipment, only

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10 of which is available to satisfy the bank. So that's what the \$2 million hedges or front money is in there for.

Mr. Bullbrook: I'm sorry, it ...

Mr. ~~Bullbrook~~ Finlayson: Isn't that about right, Mr. McCallum?

Mr. Bullbrook: I think we are really not talking ...

Mr. McCallum: He has to add one other thing which is that the whole of the \$10 million to which Mr. Finlayson refers can only be pledged if that money is used in the construction of this building. That's the point you're getting at, Mr. Bullbrook...

Mr. Bullbrook: Yes, quite right.

Mr. McCallum: ..and that is the case.

Mr. Bullbrook: Except that you and I are really not talking at odds. In effect, there is always going to be, in equity position, right?

Mr. McCallum: Yes.

Mr. Bullbrook: Available to creditors - \$2 million of front money.

Mr. Finlayson: No, that's not right.

Mr. McCallum: We're \$2 million ahead of them. They can only charge that site for, using Mr. Finlayson's example for \$10 million even though they have spent \$12 million on the building at that point.

Mr. Shibley: That's right.

Mr. Bullbrook: Well, I won't press it. I just don't think we are at odds.

Mr. Shibley: It goes beyond that. To make the picture complete and to be fair to Mr. Moog and Canada Square, the arrangement made was that pending the commencement of construction and after the entering into of the contract, Canada Square was to set aside \$2 million, into a separate account or in deposit receipts, and the Bank of Montreal, I believe,

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confirmed that this was done. So that Hydro was assured that \$2 million would find its way into the ground at that site so to speak, no matter what. Then when that building got under way, Canada Square was free to expend that \$2 million that had been set aside and I'm presuming it has ~~been~~ already expended that amount of money.

As the project progresses, let's say that Canada Square has expended \$10 million on the building, then under the contractual arrangements, it's entitled, under the ground lease, to encumber the site to the extent of 10 less 2 or \$8 million. Have I correctly stated the situation, Mr. Moog?

Mr. Moog: I believe that is correct.

Mr. Bullbrook: I appreciate your taking that time for me.

Mr. Shibley: Okay. Now, on the other hand, once the building is completed, Mr. Moog, then the whole of the funding for the building is by the mortgage that is being raised against the security of that building. Is that not so?

Mr. Moog: That would depend what the building costs. If the building costs more than the mortgage then we will have to leave money in.

Mr. Shibley: Yes.

Mr. Moog: Which is a definite possibility.

Mr. Shibley: Well, presuming for the moment that the building cost exactly the amount of the mortgage.

Mr. Moog: Right.

Mr. Shibley: Then you would have none of your own money invested in the project. It would be fully funded by mortgage financing. Is that correct?

~~Mr. Moog: If we are able to discharge all of our obligations for that amount, that is ...~~

~~(Mr. Shibley)~~

~~... would be fully funded by mortgage financing. Is that correct?~~

Mr. Moog: If we are able to discharge all our obligations for that amount, that is correct.

Mr. Shibley: That's right.

Mr. Henderson: Mr. Shibley, would there not be a further question there, with respect to the negotiation as to the actual value? Would that not come into it?

Mr. Shibley: Yes. If it turned out that it costs less, then you are only entitled to ---

Mr. Moog: To a mortgage up to that amount.

Mr. Shibley: --- a mortgage up to that limit.

Mr. Moog: That is correct.

Mr. Henderson: Up to the ~~the~~ arbitration ---

Mr. Shibley: We're back to the appraised value. I don't want to get involved into the definition of it; but the point then is that I want to refer to the reporting letter of Harries, Houser which is Exhibit 96, dated October 25, 1972. On page 15 of that exhibit, this is a report of Harries, Houser to the Hydro Commission. Page 15, Exhibit 96.

Mr. Allan: Mr. Chairman, I wonder before you leave the other discussion. Just as a matter of clarification, who was the contractor?

Mr. Moog: We are our own contractor, Mr. Allan.

Mr. Allan: Well, who are "we"?

Mr. Moog: Canada Square Corporation.

Mr. Allan: You own the equipment?

Mr. Moog: We own the two cranes you see on the site and various other equipment, yes. We rent some and we own some.

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Mr. Allan: I wondered how Canada Square operated without funds.

Mr. Deans: ~~████~~ You're meaning Canada Square owned the equipment? Or do you rent the equipment from another company.

Mr. Moog: Yes, yes we do. ^{No} ~~we~~ we own them outright.

Mr. Deans: You ~~buy~~ bought those for this project?

Mr. Moog: We bought them outright, yes.

Mr. Deans: ~~... (unclear) ...~~ For this particular project?

Mr. Moog: Well, no. We used to own them.

Mr. ~~Moog~~ Shibley: Mr. Coles is shaking his head, no.

Mr. Moog: ^{Well,} ~~we~~ we used to own them prior to this project, but we kept them for this project.

Mr. Shibley: Mr. Moog, in fairness to you I think your controller is trying to communicate with you.

Mr. Moog: We owned it before. That was the only difference, right.

Mr. Allan: Well, then you had some assets before you began? Canada Square?

Mr. Moog: I suppose so, yes.

Mr. Allan: Well, you suppose so. Did you or didn't you?

Mr. Moog: Well, we did, Mr. Allan. Those cranes ~~are~~ are owned outright, there is nothing owing against them and there is other equipment which we own outright. Certainly there is.

Mr. Shibley: Mr. Moog, I would ask you to be precise as to your answer in your respect, because I gather that Canada Square was a company that was formed in 1968. Is that correct?

Mr. Moog: In that area, yes.

Mr. Shibley: But that it remained inactive until this project was put into that company. Is that not so?

Mr. Moog: No, that's not true, no. It's been a construction company and did the Transamerica Building.

Mr. Shibley: Where is that?

Mr. Allan: ^{Well} Have to have a redeal somewhere!

Mr. Henderson: On your opening statement, Mr. Chairman, you state Canada Square phase one, Canada Square Windsor, Holiday Inn. How long ago since you've done that?

Mr. Moog: Well, if Mr. Shibley has checked the company register and the company --

Mr. Shibley: Well, Mr. Moog, I'm just going to put a quotation to you, if I may. This isn't part of the quote, but as at January 30, 1973, did you not give advice or information to the effect that, as of that date, the corporation's, and we're talking about Canada Square, the corporation's only business, I'm not talking about information to me, but to someone else?

Mr. Moog: Who to?

Mr. Shibley: Did you not inform Ames and Company as of on or about January 30, 1973, ^{Was it Jan. 30?} Well, in January 1973, that the corporation's only business will be to construct, own and operate the building described, namely the Hydro building?

Mr. Moog: I personally don't recall the statement, but it's possible that an officer of our company or somebody in our company might have talked to Ames and said that that is what the company is engaged in. That would be it's only business at that time.

Mr. Shibley: Yes. The only business would be to construct, own and operate the building, the Hydro building. Is that right?

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Mr. Moog: At that particular times, yes. That is the only business Canada Square is engaged in at this moment.

Mr. Shibley: And it doesn't have any other buildings or any ~~other~~ other assets other than the equipment?

Mr. Moog: It's a construction company. It owns assets, but it doesn't own other buildings, no. But it did build the Transamerica Building.

Mr. Shibley: Oh, it did.

Mr. Moog: Yes.

Mr. Shibley: But it doesn't own it now?

Mr. Moog: Never did.

Mr. Shibley: But is it going to continue to own the Hydro Building?

Mr. Moog: Yes, I presume so.

Mr. Shibley: And then if you go on to another project you'll have another company take on that project?

Mr. Moog: Well, that is, again, something which I don't think I ought to comment on what we're going to do after we finish the Hydro building.

Mr. Shibley: All we're really interested in knowing though is that when this project is completed, Mr. Moog ---

Mr. Moog: It will own the Hydro building, obviously.

~~Mr. Shibley: And really what is it?~~

Tape H 1892 follows

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B.A.

H-1892-1

~~{Mr. Shibley}~~

~~{Mr. Moog}~~

~~... build up, obviously.~~

Mr. Shibley: Yes, and really, that's in terms of ~~...~~

Mr. Moog: Well, I am not sure about that, Mr. Shibley.

There is a lot of planning involved in all this and ^{were we in the process of} ~~the planning~~
~~is~~ perhaps consolidating. I couldn't tell you. That's quite involved.

Mr. Chairman: Mr. Shibley, would this be a good time for a break?

Mr. Shibley: Yes, thank you, Mr. Chairman.

Mr. Chairman: We will have a 15-minute recess until

4 p.m.

The committee recessed at 3:47 o'clock, p.m.

(Tape H-1893 follows)

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B.G.

The committee resumed at 4:05 o'clock, p.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order.

Mr. Shibley: I just, for completeness, want the committee to have in mind in the context of the evidence as to the financial responsibility of Canada Square, the content of the reporting letter of Harries, Houser, Exhibit 96 dated October 25, 1972, and I will just read it for everyone's information.

Mr. Genest: What page is THAT?

Mr. Shibley: ~~15~~ Page 15, middle of the page.

"The second exception", and they are talking about exceptions which gave them concern, and they say "the second exception is also ~~one~~ ^{one} we found, which is found in leases, but not one which we felt should be included in a lease of the type and quality being entered into by Ontario Hydro. Canada Square, however, feel that their covenant to keep the ~~building~~ building fully functional is adequate protection for Ontario Hydro. Our concern is the appearance of the building which may deteriorate from ~~we~~ wear and tear and for which Canada Square are not prepared to assume the obligations to repair and maintain."

And then on the next page, 16, "Canada Square agree to provide janitor service. We have been supplied with a schedule by your Mr. Candy. There is provision^s that Hydro may, at any time, after the first year of the term, assume the obligation for janitor service, in which event the rent is reduced by .30¢ per square foot." And then in Exhibit 168, Mr. Witbeck ^{IN} ~~is~~ part of the appendix to that, said, after listing the major items of building cleaning, "the foregoing cannot be performed by any contractor ^{except} ~~except~~ at a figure greatly in excess of ~~the~~ .30¢ per square foot per year. In effect this means that we do not have a workable cleaning takeover clause."

So that having regard for the circumstances of the contract regarding maintenance, ^{wear} ~~was~~ and tear, and the takeover of janitorial services, it is a fact, Mr. Moog, that Hydro is very much at the risk of Canada Square continuing to be responsible^e ~~for~~ for

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fulfilling those ~~functions~~ functions over the full thirty years of this lease. Is that correct?

Mr. Moog: I would ~~think~~ think that they would rely on us, y

Mr. Shibley: Now then, -

Mr. Renwick: Mr. Chairman, Mr. Shibley, are you moving on to ~~move~~ another area?

Mr. Shibley : Yes.

Mr. Renwick: Could I just ask one question on the - of -

Mr. Genest: I'm sorry, Mr. RENwick, just because of that last -

Mr. Renwick: Yes.

Mr. Genest: - question, I think that it should be brought to the attention of committee members that in the lease, the rental payments to be made to Canada Square ^{under} ~~in the lease~~ \$1.45/ of which are in relation to maintenance and so on. So there is security there.

Well, ^{THEY} ~~They~~ are ~~not~~ payable, -

Mr. Genest: \$3.35 I believe is payable directly to the ^{but} mortgagee, ~~with~~ the balance of the rent is payable to Canada Square and if they don't fulfill their obligations, there is money there available to Hydro.

Mr. Shibley: Well, I was only relating the evidence to what Mr. Witbeck said about the takeover provisions.

Over
Mr. Genest: ~~On~~ the .30¢.

Mr. Shibley: Yes.

Mr. Genest: Yes; we still have our rights against Canada Square, and behind those rights lay a payment they are entitled to of \$1.45 per sq. ft.

Mr. ~~Shi~~ Shibley: Mr. Genest, that's why I dealt with it. You have your rights against Canada Square, but in the circumstance of Canada Square, if the only asset in Canada Square is the Hydro building, bearing in mind it's ~~entitled~~ entitled to fully fund the ~~ask~~ cost of the building on a mortgage against the building provided, up to a limit of \$44.4 million, and presuming it can be built

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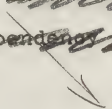
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for that limit or less, then Canada ~~the~~ Square doesn't have any assets ~~against~~ against which Hydro could seek recourse. You are quite right on the other hand, it could stop paying rent to Canada Square.

Yes.
Mr. Genest: /That would only be in the event ~~that~~ that Canada Square walk away and say, we are not doing anything, and we get -

Mr. Shibley: Yes, right, but there is a large measure, as in the report of ~~Mr. Morahan, there is a large measure of~~ dependency ~~upon the commitment of Canada.~~



(Tape H-1894 follows)

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(Mr. Shibley)

in the report of Mr. McCallum, there is a large measure of dependency upon the commitment of Canada Square to carry through this contract for the 30-year term. Isn't that so, Mr. Moog?

Mr. Moog: Yes, I would think so.

Mr. Shibley: That's the only point I make.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Chairman, could I ask Mr. Shibley if he is going to ask any questions about the group of companies, or would this be an appropriate time for me to do that?

Well, the first question I would like to ask is in connection with the financial responsibility, Was any request made to you, Mr. Moog, by Hydro for a consolidated financial statement of your group of companies?

Mr. Moog: No.

Mr. Renwick: And no request was ever made for the ~~same~~ covenant of the top company to be given to support the transaction.

Mr. Moog: No, sir.

Mr. Renwick: These next questions, Mr. Moog, are simply to clear the ground about some things in my mind ^{and} so that the record will be clear about it, And I am not in any way speaking about any inter-family relationships that you might have in connection with the group of companies and the ownership. Do you hold any of your interests in Yonge-Eglinton Building, in which you are shown as a 70 per cent holder, or of Harry Winton Investments Ltd., of which you are shown as the 100 per cent holder on exhibit 216, in trust in any way for any other person or persons, apart from inter-family relationships?

Mr. Moog: No.

Mr. Renwick: Again, just to clear the ground for the sake of the record, apart from the fee which is payable to Ames in connection with the financing arrangements that we already know about, and apart from payments to be made under the contract documents and so on, has Canada Square ~~the~~ paid any kind of a fee to any other person in connection with ~~the~~ obtaining the Hydro

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contract or --

Mr. Moog: No, sir.

Mr. Renwick: -- in connection with its performance?

Mr. Moog: No, sir, none whatsoever.

Mr. Renwick: Thanks, Mr. Chairman.

Mr. Gaunt: Mr. Chairman, may I just ask one brief

question?

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: On 216, as a matter of interest and I hope the question is appropriate, Mr. Moog, I see that, as Mr. Renwick has pointed out, you own 70 per cent of Yonge-Eglinton; you own 100 per cent of Harry Winton Investments Ltd., which means in effect that you own 95 per cent of Yonge-Eglinton Ltd. The other holder, the five per cent holding, Traders Realty Ltd., that appears to be the only outside --

Mr. Moog: That's correct.

Mr. Gaunt: -- holder in any of your companies, is that a real estate company or a --

Mr. Moog: Traders Realty? That used to be -- I think it still is -- part of the Traders & Co. concern, the Traders Group I think they call themselves today.

Mr. Gaunt: And, are --

Mr. Bullbrook: Is this an ^{Transamerica} American subsidiary?

Mr. Moog: No, sir.

Mr. Bullbrook: ~~I just want to ask~~ I'm sorry.

Mr. Gaunt: ~~Am~~ I'm just ~~wondering~~ wandering, are any of the principles then in that company also principles in your other companies?

Mr. Moog: Not from the Traders Group, no.

Mr. Shibley: Mr. Moog --

Mr. Renwick: Just so that will be perfectly clear, I just assumed and I gather from your response to Mr. Gaunt, that Traders Realty Ltd. is part of the public company known colloquially as the Traders Group.

Mr. Moog: I think that's right.

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Mr. Renwick: -- of companies and that Mr. D. W.

Naylor is the ~~xxxx~~ representative of Traders Realty on the board of Yonge-Eglinton Building Ltd.

Mr. Moog: He is still a director, yes.

Mr. Shibley: Mr. Moog, I would like you to -- I am sorry.

Mr. Chairman: Just in following it up, is Mr. Naylor now with the Traders Group?

Mr. Moog: No, I think he sold his whole company. That's ~~what~~ *my* ~~impression~~ *impression*.

Mr. Shibley: Would you get your file, Mr. Moog, again ~~at~~

~~Mr. Shibley:~~ -- What is it?

~~Mr. Shibley:~~ Negotiations and Contract file. I was asking about a given period of time, April, May, June, July and August of 1972 and exhibit 213 was the document with notes: "October 1, Treasury Board, \$29 - 1969 - 25 per cent - \$34," can you find that document? I want him to find it ~~on the file~~.

~~Mr. Moog:~~ Yes, I have got it.

~~Mr. Shibley:~~ Yes, it is ~~exhibit 213~~ and ~~then~~.

(H-1895 to follow)

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M.F.

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Mr. Moog: Yes, I have got it.

Mr. Finlayson: Is this 213?

Mr. Shibley: Yes, it is exhibit 213. And then the next document to that are some handwritten notes enumerated 5 and 5 (1). Do you see that? Is that your next document?

Mr. Moog: I believe it is 5 (g) and (h)?

Mr. Shibley: Yes.

Mr. Moog: Yes.

Mr. Shibley: I should tell you that when we received your original file to be photocopied, when we separated the file, we discovered the remnant of a page that was located between those two documents. Now we have photocopied the remnant, Mr. John Bell, my assistant, discovered it. It appeared that a page which was located within your file had at that position been torn out but the remnant parcel that was held by the clip was still there.

I will produce what we have which is the photocopy of the remnant ^{PIECE,} ~~page~~ Mr. Moog, and I would like to know what was the document. Again to help you, I notice the preceding document is dated July 4, '72. I am not sure what the next date is but it looks like July 20th.

Mr. Finlayson: What exhibit number will this be?

Mr. Shibley: Well, Mr. Finlayson, I thought it wise to have it reproduced just to confirm its existence should anyone ever raise a question about the remnant piece. Is the remnant piece still part of your file?

Mr. Moog: I don't know at all what this was attached to.

Mr. Shibley: Well would you look and see please?

Mr. Moog: Well I have my file here and you are referring me to this page. I don't see anything in the file either.

~~I check out~~, I really don't know what this is.

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Mr. Shibley: Well I think it is of importance frankly, Mr. Moog, to know whether this file was edited by someone before it was handed over to me.

Mr. Moog: Not at all.

Mr. Shibley: Well then why would there be a sheet which appears to have been torn out of this file?

Mr. Moog: Well if something was clipped on with a paper clip maybe it got out of it, I don't know. I can't help you, I don't really know what this thing constitutes.

Mr. Shibley: Well did somebody review this file before it was delivered to me?

Mr. Moog: Mr. Shibley, I was asked by Mr. Laidlaw to bring down whatever I had. I put it in a brief ^{case} ~~case~~ and went down and I wanted to go through to see myself what all happened, and he simply took the whole thing, as I understood it, and I think ~~I~~ put it in a brown envelope and delivered it to you. I think this is how this file got to you.

Mr. Shibley: You see I will tell you also, Mr. Moog, that I have checked Mr. Bradshaw's file and I have spoken to Mr. Bradshaw as well about the letter which is exhibit 211, the letter dated - I am sorry, the memorandum dated July 18, 1972, and you remember your evidence yesterday is that you said the reason it didn't form part of the file you produced to me was you probably gave the memorandum to Mr. Bradshaw. Do you remember telling me that?

Mr. Moog: Yes.

Mr. Shibley: Well it happens that the document in Mr. Bradshaw's file is not an original document, it is a photocopy and his information to me is that it was never an original but he only received a photocopy of this same document, and yet the original of that document is not in your file that is produced to me either.

Mr. Moog: I am sorry, I don't know where it is.

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M.F.

M

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Mr. Shibley: Mr. Moog, it concerns me, just as I say, and I put it to you quite bluntly, I want to know whether someone went through this file and removed from it any part of the file before it was turned over to me?

Mr. Moog: No, sir.

~~Mr. Shibley: So you do not know where the original~~
~~of exhibit -----~~

Tape H - 1896 follows

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~~(Mr. Shibley)~~

~~before it was turned over to me.~~

~~Mr. Moog: No, sir.~~

Mr. Shibley: So you don't know where your original of exhibit 211 got to?

Mr. Moog: I wouldn't have a clue.

Mr. Shibley: And you don't know where the remnant of the missing page ~~was~~ —

Mr. Moog: I am afraid I don't ^{know} where it was.

Mr. Shibley: I see.

Mr. Chairman: I think there is enough ~~reference~~ reference on the record and in the transcript. I don't think there is any point in making this an exhibit, Mr. Renwick.

Mr. Renwick: No.

Mr. ²Genest: If you do, I'll frame it.

Mr. Chairman: That's what I was afraid somebody would do. We won't make it exhibit, there is enough reference on the file.

Mr. Renwick: I would think, Mr. Chairman, for the benefit of those scholars who will be studying the results of this enquiry in the future that it would be interesting for them to have this exhibit.

Mr. Chairman: I ~~don't~~ see it even has punchholes on it. Oh yes, it may have.

Mr. Shibley: Oh, it has punchholes, just like the rest of Mr. Moog's file, just as exhibit 211 had punchholes in it and was not in that file, and, frankly, although the blank document is amusing in itself, I do not consider it a cause for amusement to think that there was a document within that file that was removed before it was turned over. It is a matter of concern to me that exhibit 211 was not in ~~that~~ file.

Mr. Finlayson: I very much resent this, I very much resent this.

Mr. Shibley: I am sure you do.

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Mr. Finlayson: To think that anybody would be stupid enough to go through and vet a file in such a way just to rip out a piece of paper ~~like~~ like that. I mean, it is an affront not only to my ethics and integrity but also to my intelligence.

Mr. Shibley: I'm not talking about you, Mr. Finlayson.

Mr. Finlayson: And there are all kinds of stuff, I may say, that you found in Mr. Moog's file which I went over with him after you ~~went over~~ ^{had} the file, and he had never seen them before ~~or~~ ^{rather I shouldn't} ~~or I forget~~ say he had never seen them before but he had forgotten all about them, and it was quite apparent to me that nobody, certainly not Mr. Moog, had been through that file ~~until~~ ^{like} until he went through it with me, and this was long after you had the original. ~~So~~ ^{Let me make the record straight;} I just don't ~~want~~ ^{make} any suggestion made ~~about~~.

Mr. Shibley: ~~I want to make it clear~~ ^{Let me make the record straight;} Mr. Chairman, I want to be very clear on this, I am not inferring or imputing anything to Mr. Finlayson, or to anyone within his ~~firm~~ ^{firm} firm, What concerns me ~~....~~.

Mr. Moog: And I hope not to me, Mr. Shibley.

Mr. Shibley: Well, Mr. Moog, I'm sorry, I am going to let the record speak for itself in that connection. The fact of the matter is that the file was not complete, at least to the ~~point~~ ^{won't complete? people}.

Mr. Finlayson: What do you ~~mean it~~ ^{mean it}, take things out of files.

Mr. Shibley: Yes, I understand, and when you say ^{to me} that somebody would be stupid enough, we didn't discover the remnant until we took the clip apart in order to photocopy the content of the documents within that file, so that it could easily have happened without the ~~any~~ person realizing what had transpired. Now, I think enough has been said about it, Mr. Chairman. However, I just felt it was my responsibility, particularly regarding the timing. Again, if the file is in chronological sequence, it may well have been a July 1972 document that we are talking about, because, again, if I may take you back again to your own file,

Mr. Shibley)

Mr. Moog, the document preceding that one is dated July 4, and is the document following it; I put a Thursday, July 20th date on it. Can you help me as to that?

Mr. Moog: I'm sorry, I am at a loss. I don't know where we are.

Mr. Chairman: Mr. Moog, evidently it is not there now, is that right?

Mr. Moog: Well, I don't know which page Mr. Shibley is referring to.

I've got the page.

Mr. Chairman: We have a picture now, ~~of something that was there and is not there now~~

(Tape H-1897 follows)

H-1897-1

(Mr. Chairman)

of something that was there and is not there now. *Is that wrong?*

Mr. Shibley: No, I think Mr. Moog is trying to establish a date for this missing document.

Mr. Chairman: No, but I was wondering who has edited it since ~~there~~ that time. Who took the blank ^{for paper} ~~paper~~ out, or the end out?

Mr. Genest: Call it non exhibit 1.

Mr. Walker: Maybe we could test it for fingerprints.

Mr. Chairman: Well it might be a good idea. But in any event it is not there now, is that right Mr. Moog?

Mr. Moog: I don't see anything else in here other than this, and the scribbling on there.

Mr. Shibley: What I want to know, Mr. Moog, is what is the date of the document next following the one where that document had been placed?

Mr. Moog: It says July 20 here, or June 20, or something of that nature.

Mr. Shibley: Yes, I can..

Mr. Moog: I don't know what it says ahead of that.

Mr. Shibley: ~~Thursday~~ Thursday.

Mr. Moog: Could be.

Mr. Shibley: And July 20 was a Thursday in 1972.

Mr. Moog: It is quite possible.

Mr. Shibley: So that the missing document would have been a document dated sometime between July 4 and July 20 if it was located in chronological sequence within your file. Is that correct?

Mr. Moog: I can't help you on that.

Mr. Shibley: Okay. I want to go on then to another topic with you Mr. Moog, and that has to do with the question of a provincial guarantee for the obligations of Hydro under the contract with Canada Square.

I took it from Mr. Bradshaw's evidence that there was a meeting on August 3, 1972, at which he received instructions respecting the terms of the contract. And I think his evidence was that Mr. Candy was at the meeting, although he couldn't be sure that

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(Mr. Shibley)

Mr. Candy was there when the instruction was received to include provision for a provincial guarantee. Can you assist the committee in respect of what was said and who was present when it was said that ~~the~~^{gave} rise to the inclusion of a provision for a province of Ontario guarantee at the meeting of August 3?

Mr. Moog: August 3?

Mr. Shibley: Yes.

Mr. Finlayson: August 3, 1972?

Mr. Shibley: That is correct. *W*

Mr. Moog: Yes, we had a meeting yes. I believe that Mr. Coles was present, it says here Mr. Candy, Mr. Cooper, Mr. Bradshaw and myself. I ~~would~~ would think that it is quite likely that I might have said to Mr. Bradshaw to try it on ~~for~~ size and see whether we could get a government guarantee.

Mr. Shibley: Was Mr. Candy there when you said that?

Mr. Moog: I am not sure. It is quite possible that Mr. Candy has a record of it and says he was there. I am not sure he was there when these instructions were given to Mr. Bradshaw. I think Mr. Bradshaw was in my office. And I wouldn't think there was any particular reason to have Mr. Candy there as far as that discussion is concerned. And I would rather presume that that ~~was~~ was a discussion between Mr. Bradshaw, Mr. Coles and myself.

Mr. Shibley: I should tell you, Mr. Moog, without producing it, at the moment, that Mr. Bradshaw did a draft agreement dated August 25 as part of the terms. I'm sorry; August 24? He said it was on the 25th that he drew it. And it included these words: "The lease shall be executed and delivered by Ontario Hydro and Canada Square, and by ~~Her~~ Majesty in the right of the Province of Ontario's guarantor, of the obligations of Ontario Hydro thereunder prior to the date upon which Ontario Hydro takes possession of the building ~~in the Hydro~~."

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(Mr.Shibley)

~~guarantor of the obligations of Ontario Hydro thereunder prior to the date upon which Ontario Hydro takes possession of the building and the Hydro lands.~~ Now then, that was submitted to Mr.Houser, and he responded with a draft of September 15 which is already an exhibit, 196, and on page 11 in that document the wording is: "The lease shall be executed and delivered by Ontario Hydro and Cahada Square and by Her Majesty in the Right of the Province of Ontario as guarantor of the obligations of Ontario Hydro thereunder prior to the date upon which Ontario Hydro takes possession of the building and the Hydro lands and the Metro lands if made available".

Mr. Moog: Right.

Mr. Shibley: I'm sorry that we haven't yet reproduced Mr. Bradshaw's first draft but I tell you that the wording has been changed by Mr. Houser in his re-draft of September 15th, the very last words being ~~not~~ - in Mr. Bradshaw's draft it said; "as guarantors of the obligations of Ontario Hydro thereunder prior to the date upon which Ontario Hydro takes possession of the building and the Hydro lands"; Mr. Houser's draft saying, "possession of the building and the Hydro lands and the Metro lands if made available". So that it is clear from Mr. Houser's draft of September 15 that he had regarded for the provision in question to the extent even of making an amendment to it.

Mr. Moog: I would have hoped so too at that time.

Mr. Shibley: Yes. And then Mr. Houser wrote a letter dated September 20th to Mr. Bradshaw. I will have it produced as the next exhibit, Mr.Chairman. Dated September 20th, 1972. This is Houser - I'm sorry - Mr. Houser to -- yes, Mr. Bradshaw.

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Mr. Chairman: That will be Exhibit 217.

Mr. Shibley: And you will notice in ~~the~~ this letter he says:

" enclose draft . . . After you have had an opportunity of going over it, the writer would be pleased to discuss it . . . In the meantime we have submitted a copy to our clients for their comments."

So that as ~~of~~ September 20th, 1972, Mr. Moog, was it your belief that the provision for a Province of ONTario guarantee was to be part of this transaction?

Mr. Moog: I think the best way I can explain this, Mr. Shibley, is that I would have very much liked to see it---

Mr. Shibley: Yes.

Mr. Moog: --- as a part of the transaction. It would have enabled, it would have assisted me greatly in my endeavours to finance. I should also add that I personally never held out much hope to obtain it.

Mr. Shibley: Well now, Mr. Moog, by this time your Swiss financing had fallen through, is that correct?

Mr. Moog: It had nothing to do with Swiss financing.

Mr. Shibley: I realize that, but it had fallen through and you were now being confronted with the need to pursue funds in the regular market, is that right?

Mr. Moog: I think wherever you obtain funds, Mr. Shibley, if you have the province's guarantee it is a big plus.

Mr. Shibley: Yes.

Mr. Moog: And I never held out much hope, I never pursued it in any measure at all, I just thought if Hydro swallows it, that would be good for us. And that is why we ~~had~~ had it in.

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(Mr. Moog)

I know Mr. Bradshaw was quite taken back when there was just no hope of getting it, but I certainly thought we should try it, but I CERTAINLY also thought, that is what I meant to say, that we would never really get it.


Mr. Shibley: Well, at that time you were dealing with what company?

Mr. Moog: I would think probably with Equitable.

Mr. Shibley: Yes. And weren't they a company which was concerned to have the Province of Ontario guarantee?

Mr. Moog: I think any company would be.

Mr. Shibley: No, I AM TALKING about, putting it to you very specifically, that they were concerned that Hydro was neither fish nor



(Tape 1899 follows)

(Mr. Shibley)

~~is that they were concerned that Hydro was neither fish~~
~~nor~~ fowl at that time; was not a Crown corporation. And there was concern also that Hydro could not be sued without consent. Do you remember that?

Mr. Moog: I believe there was some discussion like that, Mr. Shibley, yes.

Mr. Shibley: And in your discussions with Equitable was it not part of that discussion that this difficulty respecting Hydro not being a Crown corporation and Hydro not being subject to being sued without consent, that these were difficulties that would be overcome if you got a Province of Ontario guarantee?

Mr. Moog: I don't think that was the major difficulty, Mr. Shibley. To put it again, I wouldn't deny what you are saying that that might have been discussed, but I think the thrust of our problem with Equitable was their withholding tax problem, and not the guarantee necessarily.

Mr. Shibley: I know the withholding tax was another problem.

Mr. Moog: Yes, I think that was the major problem, with due respect. I think that's the one ~~that we had~~ *in that house* ~~which was involved~~. I don't think we actually got into any great detail on the Province's guarantee. It was just left in abeyance, because the way we deal is we straighten out the big problems first and then we get down to the little ones. So, we never did get down to this one, because Equitable just couldn't come through because of their withholding tax problem.

Mr. Shibley: Well, let's leave the withholding tax problem aside for the moment because that's how we get distracted in our discussions, Mr. Moog. At the moment ---

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Mr. Moog: I did say that I didn't really -- I don't recall any specific discussions on it. I don't deny we had any. I don't deny that we left that matter in abeyance and then ~~we~~ tried it on on Hydro and see whether we could get it.

Mr. Finlayson: I just remind you, Mr. Shibley, that Mr. Bradshaw testified that Hydro had never borrowed money on its own up to this point. That's my recollection of Mr. Bradshaw's evidence and that's why he ^{as he} stated, ~~that~~ ^{that} expected they would have to have the Province of Ontario's guarantee before they could finance.

Mr. Shibley: Well, what concerns me, Mr. Chairman, is that; I'd like to Mr. Moog, I must tell you that I am in possession of documentary and other evidence that you were representing or indicating that the guarantee of the Province would be available as late as September 29, 1972. I'm not saying you didn't make it later than that, but I'm starting with that. And that this was information provided ~~by you~~ by you with respect to the efforts with X company to get funding by it. Is that not so?

Mr. Moog: That's quite possible.

Mr. Shibley: Yes. And what is of concern to me is that in one of your memoranda which is already produced, there is reference to "October 1 Treasury Board", and I am most anxious to have your evidence a matter of record as to the circumstances of your advising -- actually, this is information provided to Ames and Company again, but with respect to their efforts with the ultimate financial institution, that the guarantee of the Province was ~~not~~ available.

~~Mr. Moog: I had no reason to believe that it was. I was trying, in this draft, to get Hydro to agree. I have not followed up with Treasury.~~

Tape H 18 1900 follows

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Mr. Moog: I had no reason to believe that it was. I was trying in this draft to get Hydro to agree. I have not followed up with Treasury Board or anybody, because I think it ended up in a quick death right after this draft by Mr. Hauser.

Mr. Shibley: Well then,

Mr. Bullbrook: Mr. Shibley, have you been able to ascertain whether there was a Treasury Board meeting—provincial?

Mr. Shibley: I haven't, Mr. Bullbrook. My information is that the one that was closest to that date was October 3, 1972.

Mr. Bullbrook: I'm not sure whether they even called it Treasury Board then.

Mr. Allan: There was no Treasury Board.

Mr. Shibley: Well, what is - the committee members— here is another area where you can help me more than I can help you, and I just tell you that having regard for the evidence of Mr. Bradshaw and I must tell you that there is evidence of Ames and Company to the effect that their understanding had been that there would be a Province of Ontario guarantee down to October 23, 1972. You heard Mr. Bradshaw say that it was only then that he learned that there was not to be a guarantee and that he was surprised to learn there was not to be a guarantee. And I can tell you, as I say, Ames and Company were working under the impression at least or with the information that there was to be a guarantee.

I'm most anxious to know from Mr. Moog what, if anything, he can say to help us to clear up that aspect of the business.

Mr. Moog: Let me try, Mr. Shibley. It was wishful thinking on our part at one time, particularly when we made our first draft, to see whether we could get the province's guarantee.

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(Mr. Moog)

It got shot down very quickly. I have never had that much hope. I know that Mr. Bradshaw was quite used to any Hydro issue carrying or any Hydro borrowing carrying the profits guaranteed to him. I think that was a matter of course. He was much more surprised that we couldn't get it than I was. I never really believed I could get it. I never made any contact to anybody or even tried it any further. I just thought, well, perhaps we can and that's all. That's why I scribbled, for instance, on Exhibit 196, "Keep ~~AS~~ evidence at elbow", as agreeing to province's guarantee.

That is the way this came about. There is nothing else to be said about it. I can't help you any further.

Mr. Shibley: Independently of that problem there was also this question of the right to sue Hydro without consent. And I put it to you that this was very much of concern to the X Company and to Ames throughout the early part of November, 1972. Is that not so?

Mr. Moog: I personally had no dealings at that time with the X Company and I suppose that you could classify that more as a legal problem and I am sure that Mr. Bradshaw - I don't know what evidence he gave - I don't recall but ...

Mr. Shibley: Well, I just tell you ...

Mr. Moog: I'm quite sure that he was concerned about it.

Mr. Shibley: Yes, but I just tell you and for the information of the committee, that there is information that on November 3 and November 8, this was the subject of documented notation by Ames that Hydro could not be sued without consent.

I am going to ask Mr. Genest to check the minutes of Hydro because in my speed reading of those minutes a long time ago I have some recollection that there was something relative to this topic within those minutes at about this same time.

Mr. Genest: It's all news to me, Mr. ~~Shibley~~ ^{SHIBLEY}, I'll check and let you know.

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Mr. Shibley: Yes, well, as I say, it was a long time ago ...

Mr. Genest: What did you want me to look for?

Mr. Shibley: I'd like you to check the minutes of Hydro during the period October, November of 1972 to determine whether there was correspondence, I believe, between Mr. Gathercole and others, referable to this question of the ability to sue Hydro without consent.

Mr. Genest: I'm sorry, to check - I won't find correspondence in the minutes, Mr. Shibley.

Mr. Shibley: I know but there may be reference to correspondence in the minutes. I'm going by recall, as I say, of two or three months ago now and I, as you know, there was about 10 volumes of minutes I only looked at in a cursory way.

Now, Mr. Moog, ...

Mr. Genest: ~~Before since I am going to undertake~~
this search ...

H-1901 to follow

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(Mr. Shibley)

~~put that in a cursory way. Now, Mr. Moog~~ -----

Mr. Genest: Before --since I am going to undertake to search Mr. Shibley, could I have some indication of its relevance?

Mr. Shibley: Yes you can because first of all I want to know whether there is anything at all in this question of the provincial guarantee being attempted. I ^{HAVE} ~~had~~ to tell members of the committee that on November 13, 1972, Task Force Hydro came in with a report recommending that Hydro be made a Crown corporation and that this fact is part of the Ames record that on November 16 there is a notation that this takes the status of Ontario Hydro out of limbo.

Now I am anxious that the committee know that this was a matter of concern, this question of provincial guarantee, this question of the ability to sue Hydro, the fact that it was made a Crown corporation on November 13, 1972, being a circumstance which -----

Mr. W. Newman: It wasn't made a Crown corporation.

Mr. Shibley: Well it was recommended and I think there was publicity that this recommendation was going to be approved by the government. There was a publication on November 14 in the Globe and Mail styled "Davis Accepts Task Force Recommendation to change Hydro into a Crown Corporation," and ^{THAT} ~~the~~ news clip was remitted by Ames and Company to - this will be in evidence through the Ames witnesses - to X company under cover of a letter of November 16, and wherein it says "that this should help to take the status of Ontario Hydro out of limbo." Now I am only asking you about it, Mr. Moog, to ascertain what, if any, information or knowledge you have in respect of the problem that was being resolved, or ultimately was resolved, by the fact that Hydro was to be made a Crown corporation.

Mr. Moog: Well I have to ask a question - are they a Crown corporation now?

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(Mr. Moog)

You say it has eventually been resolved.

Mr. Chairman: No, I don't think they are yet.

Mr. Moog: ~~Has the problem~~ ^{Well then it} has been resolved?

Mr. Shibley: Well I gather it is intended to make them a Crown corporation. You are still not answering.

Mr. Moog: I don't know, Mr. Shibley. I have told you all I know about this matter, I can't help you any further.

Mr. Shibley: You don't know anything about it then?

Mr. Moog: I don't know anything about this.

Mr. Shibley: Mr. Hodgson has kindly given me, I guess a statement by the Premier at a news conference to release the first report of Task Force Hydro dated November 13. On page 2 as indicated,-

"As a first step, however, I can say that the provincial government ~~supports the designation of~~ supports the designation of Ontario Hydro as a Crown corporation", and then later -

"Steps to implement the new corporate structure will be taken in the very near future".

Now, Mr. Moog, I realize this may be a little unfair putting it to you, although while I have you as a witness I want to make sure that I have got all the information that I can from you as a source. If you know nothing about it, you will have to say so; but I have to tell you that it is part of the Ames documents that I have referred to that they had concern apparently on November 3rd, November 8th, as to this problem of suing without consent, and that as of November 16, after this publication was made, they felt that that relieved the problem.

Now did you have any part of the discussions in that connection?

Mr. Moog: None whatever, Mr. Shibley.

Mr. Shibley: All right.

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~~(Mr. Shibley)~~

~~this publication was made, they felt that you solved the problem. They didn't have any part of it.~~

Mr. Moog: None whatsoever, Mr. Shibley. I heard of it on the periphery I believe from Mr. Bradshaw and Mr. Coles, but until you brought it up again, it doesn't even ring a bell.

Mr. Shibley: Well, are you telling me that Mr. Coles dealt with ~~this~~ this problem?

Mr. Moog: No, sir. Mr. Bradshaw dealt with this problem, I believe, with the people from Ames or with the company X.

Mr. Shibley: Did you or anyone in Canada Square ever discuss the problems emanating from the fact that a provincial guarantee was needed or something needed to be done to take Hydro out of limbo, ~~is~~ is the wording that --

Mr. Moog: No, Mr. ~~Shibley~~ Shibley, we did not.

Mr. Shibley: You never discussed that with anyone?

Mr. Moog: No, sir.

Mr. Bullbrook: Mr. Shibley, could you help me? I understood that the ingenuity of Mr. Bradshaw in connection with the Crown Corporation, at least majority shareholding by the Crown, resulted from the ~~with~~ withholding problem --

Mr. Moog: You are quite right, Mr. Bullbrook.

Mr. Bullbrook: -- of Equitable. I take it from your correspondence there was still some concern with X company in connection with the establishment of a Crown Corporation.

Mr. Moog: No, but you are right on your first statement.

Mr. Shibley: But I think it is a point that we might clear up.

Mr. Bullbrook: Help me just for a moment. You just quoted I think from a letter from Ames to X company --

Mr. Shibley: Yes.

Mr. Bullbrook: -- talking about taking the status of Hydro out of limbo.

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Mr. Shibley: Yes.

Mr. Bullbrook: -- And my recollection of Mr. Bradshaw's evidence was that that particular device only was referable to the question of Equitable.

Mr. Shibley: No. I am sorry, I have confused you then. What that letter did, and it is a letter dated November 16, 1972, is to remit from Ames to X Company a copy of the newspaper report of the Globe and Mail dated November 14, wherein it is reported that Davis accepts Task Force recommendation to change Hydro into a Crown corporation. Now there had been concern with X Company and Ames that there was no right to sue Hydro without consent. By November it was also known that there wasn't going to be a provincial guarantee. By October 23, this was made known to Mr. ~~Brown~~ Bradshaw, so that we had a situation from October 23 forward when there was now known that it would not be guaranteed by the province and there was concern now as to the inability to sue Hydro.

When the Task Force report number one came down on November 13 and it was reported in the press, that circumstance was relayed to X Company on November 16 and said -- well, now, that solved the problem. If they are going to be a Crown corporation, we needn't worry any longer, so to speak, about the ability to sue, and I suppose the worry about the lack of a provincial guarantee was similarly relieved; I am not sure as to the last, but they certainly were relieved as to the ~~ability~~ ability to sue. Do you follow that? It has nothing to do with the Crown corporation for purposes of dealing with the withholding tax problem; but I do want to clear that up with you, Mr. Moog.

There were references to Crown corporation. ~~the~~ Whenever there were such references in any of the material, it only had to do with the concept of Mr. Bradshaw that there would be a Crown corporation set up, altogether separate from Hydro, given a name -- I think you had one for it, University Properties -- and used as a vehicle to eliminate the problem of withholding tax with Equitable.

Mr. Moog: That's right.

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Mr. Shibley: But whenever there is a reference to a Crown corporation, that's all it means.

Mr. Moog: I have ^{other} no understanding of it whatsoever.

Mr. Shibley: Mr. Genest incidentally said that that idea was turned down some time after July 19, turned down flat, and I don't think we need deal on it.

Mr. Genest: ~~Um,~~ Well, do I still need to have poor Mr. Raney spend several hours reading the minutes?

Mr. Shibley: Yes, I do want you to do that, Mr. Genest, because — well, just because.

Mr. Genest: Well, with great respect —

Mr. Shibley: I don't think it will take hours. I will do it myself if it becomes necessary. I will find it, if you will produce that volume of the minutes.

Mr. Genest: I would like to keep you busy elsewhere, Mr. Shibley. I don't want to divert you. I will get Mr. Raney to do it.

(H-1903 to follow)



H-1903-1

August 28, 1973
4:55 - 5:00 p.m.
B.G.

(Mr. ~~Beattie~~)

...

~~Mr. Chairman: I don't recall the date when you made~~
~~Mr. Beattie: I don't recall the date when you made~~

Mr. Shibley: Did you - there has also been reference, Mr. Moog, to the use of Hydro pension funds.

Mr. Renwick: Mr. Chairman, are we going to leave that guarantee question?

Mr. Chairman: Yes.

Mr. Renwick: There are two or three matters I would like to, on the guarantee, that are of interest to me. Mr. Moog, when Mr. Bradshaw was giving his evidence, he said that the origin of his knowledge about the insertion of a guarantee of the Province of Ontario, was instructions which he received at a meeting on August 3 in your office at which Mr. Candy was present. And that ~~was~~ reference is ^{at} page 1699-3 of Hansard dated August 2nd.

He says specifically he doesn't know ~~when~~ whether he got the instruction before or after Mr. Candy arrived, or ~~during~~ during the time that Mr. Candy was there. "But the draft of the agreement I prepared is a result of those instructions, including the provision that the Province of Ontario would join in the lease as guarantor".

Your evidence as I understand it, is that it was ~~your~~ your idea that the guarantee of the Province of Ontario should be inserted in the first draft?

Mr. Moog: Well, I think Mr. Bradshaw expected to have it in and I certainly wanted to see whether we would get any place with it, Mr. Renwick.

Mr. Renwick: Was there any indication to you from anyone in Hydro, and particularly from Mr. Candy, that the guarantee of the Province could or would be available?

Mr. Moog: No sir; never discussed with Mr. Candy.

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4:55 - 5:00 p.m.
B.G.

Mr. Renwick: Now, elsewhere in Mr. Bradshaw's evidence, and I can't put my finger on it at the moment, when asked about the date on which he first heard about the deletion of the guarantee, he first of all stated that it was on Monday, October 23rd, and Mr. McCallum, if my memory serves me rightly, interjected, that yes, Mr. Houser had had the carriage of the matter, but he, Mr. McCallum, then said that the guarantee would not be ~~available~~ available, but Mr. Bradshaw indicated that on the Sunday, October 22nd, he was advised that the guarantee would not be included. Now, from whom did you receive your first knowledge that the ~~guarantee~~ ^s ~~provision~~ provision had to be deleted from the documents?

Mr. Moog: I would presume probably from Mr. McCallum. It could have been from Mr. Bradshaw too, I am not quite sure, but I would presume Mr. McCallum might have been the one.

Mr. Renwick: ~~Do~~ Do you know who - did you have any direct communication with anyone other than Mr. Bradshaw about this guarantee prior to its deletion on October 23rd?

Mr. Moog: I can't recall that at all, Mr. Renwick.

Mr. Renwick: Did anybody in government ask you or say to you that the guarantee can't be provided?

Mr. Moog: No, sir; I had no discussions with the government about the guarantee at any time.

Mr. Renwick: Did anybody in Hydro tell you it had to be deleted, apart from any discussions that took place between Mr. Bradshaw and Mr. McCallum?

Mr. Moog: It might have been Mr. Houser but I wouldn't think so. I think it was Mr. McCallum, if I recall correctly.

Mr. Renwick: Well, Mr. Bradshaw very carefully in his evidence, I don't -

(Tape H-1904 follows)

H-1904-1

(Mr. Renwick),

Well Mr. Bradshaw very carefully in his evidence - I don't know which page it is on, but my recollection is very precise about this - very carefully said October 23, then said "No, it was on October 22 that was told, and that was the Sunday".

Now which page is that on Mr. Shibley?

Mr. Shibley: It must be around 1667. I'm almost certain from my brief that it is 1667-1, but I'll check it.

Mr. Chairman: Mr. Shibley: Thank you. I would be obliged if you would give him the original, but I am interested now in the witness's last answer that ^{"THIS IS"} the first date on which you were aware, Mr. Bradshaw, that the province's guarantee was not to be provided under the lease agreement was on October 23, 1972. Is that correct?

"Mr. Bradshaw: As soon as you repeated that to me I realized that I may have just been a little too quick on that. That is the date that I made a note of it. Let me see what day of the week it was. That was a Monday. I think I discovered it the day before probably."

Mr. Shibley: I think what Mr. Renwick is looking for 1667-1 at the top; Mr. Bradshaw. You see Mr. McCallum has interjected and said something on the record and Mr. Bradshaw said:

"I think it is a little unfair that I am under oath and he isn't and I don't mean this with any disrespect to Mr. McCallum. He is only trying to keep the thing going and I understand, as he says, he is going to have his day. According to my notes, it was a meeting on October 23 that I discovered there was to be no guarantee."

"Mr. Shibley: Not until then?"

"Mr. Bradshaw: That's right. Now perhaps in Mr. McCallum's mind there wasn't any possibility that there was going to be a guarantee at an earlier date, but that is when..."

And you can go behind that Mr. Renwick, or go forward on it

Mr. Finlayson: Mr. Shibley, I think ^{if} you let the chairman read on ~~on~~ page 1667-2 that Mr. Renwick's recollection is correct, that he changes his statement and says ["] I made a note ~~about~~ it on the 23rd, but ["] ~~A~~ heard about it the day before.

H-1904-2

Mr. Shibley: October 22 yes. That's right too. And then later on Mr. Renwick you did ask him whether he was surprised.

Mr. Renwick: Yes, I recall that.... ~~and he was surprised~~

Mr. Shibley: And he says yes he was.

Mr. Renwick: And he says yes he was. But those..

Mr. Shibley: It is on page ~~166~~ 1672-2

"Mr. Renwick: I have got one question that is not particularly knowledgeable. Were you surprised that it was to be deleted?

Mr. Bradshaw: Yes."

Mr. Renwick: Mr. Moog, if I could pick this up again as to my concern. On Hansard page 1666-2 of August 1 Mr. McCallum stated:

"I want to tell you that Mr. Bradshaw was trying something on in his draft and Mr. Houser who had not, at that point, had any instructions from Hydro and was assisting me in every way he could in these matters, merely repeated something that had not been brought to his attention. When it came to my attention, as Mr. Bradshaw will be quick to tell you, I nixed it or vetoed it immediately, and that's the last we ever heard of that matter. There was no understanding and there was, of course, no instructions at any time from Hydro to agree, nor were we even prepared to consider the guarantee of the province."

Now Mr. McCallum took the responsibility for the deletion of the clause in those remarks. But then ~~that is not~~ ^{bottom} ~~the end of~~ page 1667-2 ~~stated~~

"Mr. Shibley: Thank you. I would be obliged if you would give him the original, but I am interested now in the witness's last statement that the first date on which you were aware, Mr. Bradshaw, that the province's guarantee was not to be provided under the ~~1966~~ ^{agreement} ~~agreement~~ ~~1966~~ ~~1967~~ ~~1968~~ ~~1969~~ ~~1970~~ ~~1971~~ ~~1972~~ ~~1973~~ ~~1974~~ ~~1975~~ ~~1976~~ ~~1977~~ ~~1978~~ ~~1979~~ ~~1980~~ ~~1981~~ ~~1982~~ ~~1983~~ ~~1984~~ ~~1985~~ ~~1986~~ ~~1987~~ ~~1988~~ ~~1989~~ ~~1990~~ ~~1991~~ ~~1992~~ ~~1993~~ ~~1994~~ ~~1995~~ ~~1996~~ ~~1997~~ ~~1998~~ ~~1999~~ ~~2000~~ ~~2001~~ ~~2002~~ ~~2003~~ ~~2004~~ ~~2005~~ ~~2006~~ ~~2007~~ ~~2008~~ ~~2009~~ ~~2010~~ ~~2011~~ ~~2012~~ ~~2013~~ ~~2014~~ ~~2015~~ ~~2016~~ ~~2017~~ ~~2018~~ ~~2019~~ ~~2020~~ ~~2021~~ ~~2022~~ ~~2023~~ ~~2024~~ ~~2025~~ ~~2026~~ ~~2027~~ ~~2028~~ ~~2029~~ ~~2030~~ ~~2031~~ ~~2032~~ ~~2033~~ ~~2034~~ ~~2035~~ ~~2036~~ ~~2037~~ ~~2038~~ ~~2039~~ ~~2040~~ ~~2041~~ ~~2042~~ ~~2043~~ ~~2044~~ ~~2045~~ ~~2046~~ 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(Mr. Renwick)

~~"I don't know on which day you were asked to provide the guarantee. I think that the previous guarantee was not to be provided under the lease agreement was on October 23, 1972. Is that correct?"~~

"Mr. Bradshaw: As soon as you repeated that to me I realized that I may have just been a little too quick on that. That is the date I made a note of it. Let me see what day of the week it was. That was a Monday. I think I discovered it the day before probably.

"Mr. Shibley: On October 22.

"Mr. Bradshaw: Yes. I think on the Sunday. The Saturday or the Sunday before.

"Mr. Shibley: Now, Mr. Finlayson wants you to have the original document in front of you."

And so on and so forth.

My question is, do you have any knowledge of the person who indicated to Mr. Bradshaw on the Sunday or the Saturday that the guarantee was not to be included?

Mr. Moog: I couldn't answer that, Mr. Renwick.

Mr. Renwick: Now, so far as anything subsequent to October 23, 1972 in connection with the guarantee is concerned, I gather Mr. Bradshaw was not involved in that because I think his evidence was that he handed the matter over to one of his partners or colleagues.

I had the impression from Mr. Bradshaw's evidence that somebody told him to delete the matter of the guarantee from the agreement and that it was not Mr. McCallum. That was the impression I had. Can you help me as to whether anyone else other than Mr. McCallum advised that the guarantee was to be deleted?

Mr. Moog: I just don't recall who said what, to Mr. Bradshaw, Mr. Renwick, at the time.

Mr. Renwick: May I go back to Exhibit 213, which is the pencil notes of July 4 and go on to another aspect of it? I recognize Mr. Allan's interjection that maybe it wasn't called the Treasury Board on July 4, 1972, but it was about that time that the changeover took place. Is the reference in your handwritten notes on Exhibit 213 --

~~(Mr. Renwick speaking to someone)~~

Mr. Bullbrook: If you will permit me for a moment, I think I was the one that mentioned that in passing. But I would be readily in agreement with Mr. Renwick that I think lay people and, frankly, we continue to refer to it as the Treasury Board on many occasions.

Mr. Renwick: Is the reference in Exhibit 213 to Treasury Board to the government of Ontario Treasury Board?

Mr. Moog: Mr. Renwick, I believe I answered that before.

Mr. Renwick: You may have, and I apologize for not ~~hearing~~ hearing, it.

Mr. Moog: All right. I have dealt in that general period of time also with the federal government and I have had a meeting with the minister of the Treasury Board of the federal government regarding the CBC transaction. And I am trying to recall whether this would refer to the Treasury Board meeting ~~on~~ whatever date this is. I don't even know whether these dates are related from just these ~~scribbled~~ scribbled notes. Whether they relate to the federal Treasury Board or whether they refer to the provincial Treasury Board at all. I would think that if we had any intentions to get a government guarantee that we would have had a deal with the Treasury Board, no question about that. And that's why I've asked whether there was a Treasury Board meeting on October 1, that would have assisted me to establish that. That's what I said earlier, I believe.

Mr. Renwick: Well, I took the whole of Exhibit 213 to be notes of yours referable to the Hydro transaction.

Mr. Moog: No, I didn't say that.

Mr. Renwick: No, I said I took it. Then you say that it may not be so.

Mr. Moog: It may not be so. It may or may not be so.

Mr. Chairman: Mr. Renwick, in the middle of page 1669-1 there's a further reference to the matter by Mr. Bradshaw. I'm not sure what you're looking for.

Mr. Renwick: I think I'm finished with my point on that particular Hansard.

Mr. Bullbrook: Mr. Renwick, Did we ~~was~~ ever have the help of Mr. McCallum on this? Did we ever have the help to ascertain whether he informed Mr. Bradshaw?

Mr. Genest: Yes.

Mr. Bullbrook: We did, did we?

Mr. Renwick: Well, we had ~~was~~ Mr. McCallum's ~~interference at that time but I took it that Mr. Bradshaw~~
~~was not referring to a...~~

Tape H 1906 follows

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M.R.

(Mr. Renwick)

~~Mr. Bradshaw's~~ interjection at that time, but I took it that Mr. Bradshaw was not referring to a communication from Mr. McCallum when he corrected himself, very carefully, as to whether it was October 23 or whether it was the Sunday or the Saturday preceding, and that's what, I just take it that in the context of the discussion which took place that had Mr. Bradshaw heard from Mr. McCallum he would have said so.

He would have said that's the person who told me. That it was not to continue in the agreement, but he didn't say that. He barely referred to some communication to him the day previously and that was the problem I was having with it.

But Mr. Moog said he can't help me with that. But on July 4 of 1972 the reference to the Treasury Board - and let me for the moment make the assumption that it - because of the other parts of this document in your notes referring to the Hydro matter that it does refer to Hydro - you were clearly aware at that time that the guarantee of the Province of Ontario would require approval through the Treasury Board?

Mr. Moog: Oh, I think so, yes.

Mr. Renwick: But you had never had any discussions with anyone around the time of this memorandum at Hydro or elsewhere that the guarantee would be forthcoming?

Mr. Moog: That is correct.

Mr. Renwick: Mr. Chairman, maybe I need Mr. Shibley's help and maybe I can't phrase the question properly, but I want to express my concern and then see if anyone else can help me phrase the question I want to ask.

If throughout the spring of 1972, from the time when Mr. Gathercole spoke to Mr. Davis at the opening of the Pickering Plant in February, through the sequence of Mr. Gathercole's trip to Japan with Mr. McKeough, his return to Toronto, his letter saying that Darcy wanted to get the government procedural -

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suggested that the government procedural ball be got rolling by the ministry of Public Works or Government Services, the letter, which was in the letter from Mr. Gathercole to the Premier, it would be quite consistent with that that if the guarantee was going to be given, Treasury Board would want some presentation to be made to the Cabinet, or to them and through them to the Cabinet, and Mr. Gathercole had referred to a presentation to be made to the Cabinet which was this long document, Exhibit 67; and everybody between Hydro, despite Mr. Gathercole's nudging or edging up to the government to get some kind of go-ahead or okay or approval, the government - those who were aware of the problem in government ^{seem} seemed to keep away from the problem, and sort of indicate that it was Hydro's ball and it was in Hydro's field. One of the connections ~~that~~ would have to be cut if there was to be no connection between government and Hydro on who was to be responsible for going ahead with this transaction, would be that there couldn't possibly be a guarantee because that would very much involve the government.

Now with that lengthy preamble of sequential events my concern is: Did someone say no? Anybody other than Mr. McCallum say no, we are not - there is to be no guarantee given?

Mr. Moog: Not to me or my company, Mr. Benwick.

Mr. Renwick: Not to you?

Mr. Moog: No.

Mr. Renwick: So you, and I take it that you were not the source of the information conveyed to Mr. Bradshaw that the guarantee was not to be included when he referred carefully to the Sunday or the Saturday preceding October 23?

Mr. Moog: To be correct on that Mr. Renwick, with the possible exception that Mr. McCallum could have talked to me and then I relayed Mr. McCallum's comments on, I believe what happened is that Mr. McCallum, as soon as he saw that, because we were dealing Mr. Hauser, he said "No go at all"; and

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(Mr. Moog)

and that was the end of it.

Now I would have thought he would have talked to Mr. Bradshaw and maybe he can help us with that, I don't know.

Mr. Renwick: Now, on exhibit 213, who is the —
has this question been asked as to who the Henry is on the upper right-hand corner? Was it?

Mr. Bullbrook: Yes.

Mr. Finlayson: What the answer was, I don't know.

Mr. Bullbrook: It was asked. He didn't recall who the Henry was.

Mr. Renwick: Well, I take it, Mr. Chairman, that so far we are being asked to accept, subject to Mr. McCallum's evidence, Mr. McCallum's view that it was simply that Mr. Houser wasn't aware that the guarantee wasn't to be given and that it was just purely part of the lawyer's game that it was involved in the documents at all.

Mr. Finlayson: Well I don't think he ^{said} ~~and~~ We haven't heard from him but he hasn't said that he wasn't instructed by somebody in Hydro to say no.

~~Mr. Chairmen: I think that a great deal of evidence early in the game that this is one reason why~~



H-1907 to follow

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B.A.

H-1907-1

~~(Mr. Houser)~~

~~He hasn't been instructed by anybody in Hydro to~~
~~do this.~~

Mr. Chairman: I think we had a great deal of evidence early in the game that this is ^{one reason} why Hydro didn't build the building themselves. Mr. Shibley;

Mr. Shibley: We should have regard for the fact - the reason I put in exhibit 217 was that when Mr. Houser prepared his draft of September 15, not only had he applied his mind ^{to} that clause because he amended it, he extended it to Metro lands so that he obviously applied his mind to the clause, referable to the guarantee, and may even have taken it up with Hydro people, but in his letter of September 20th he says he has submitted a copy of the draft to his clients, that would be to Hydro. So that we know that as around September 20th, Hydro was in possession of a draft of the document which included the government guarantee. Now, what was the reason for ~~not~~ Hydro or someone not to raise that as an issue prior to October 23 ^{is} something Hydro will have to answer for.

Mr. Bullbrook: Well, you know, I wanted to - I don't know whether I am on the same line, I don't think I am, but we have operated here over the past millenium on the basis that we do accept, notwithstanding the lack of ^{extra} assistance from ~~the~~, and I really would like some assistance from Mr. McCallum, if he is reticent to do so.

Mr. McCallum: No, not at all. I'm just busting to get into it.


Mr. Bullbrook: Because, if, in point of fact, he did receive instructions from Hydro that there was to be no guarantee then he can help us in that respect.

Mr. Shibley: I don't think that he is the person to help, with all due respect to Mr. McCallum. It may be Mr. Houser who is the essential person.

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B.A.

H-1907-2

Mr. McCallum: No, no. Let me try and help. First of all, I received no instructions ~~any~~ from Hydro at any time with respect to the provincial guarantee and my position, that I have expressed and is on the record with respect to saying "no" or vetoing this, was taken



(Tape H-1908 follows)

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DT

(Mr. McCallum)

~~provincial guarantee and my position that I have expressed and is on the record with respect to saying "no" on voting this was taken~~
by myself in view of my understanding of the transaction and the instructions I had got in the beginning that it was a transaction to be taken solely by Hydro; and to embellish really the words that I gave you earlier when I was interjecting, and this time I have been invited so I can take just a moment longer maybe, Mr. Renwick, my reaction to it was that -- here is a transaction they are supposed to run on their own. Now, if Mr. Moog thinks for one minute that there is going to be a provincial guarantee, I said *to him* couldn't you better go and get a letter from somebody saying that that's what they are going to do, because unless you have that, I am not going to pay any more attention to that idea at all.

Now with respect to Mr. Houser, I of course won't attempt to give the evidence for him in a definitive way, except to say to you, so that you can get your thinking squared away, both Mr. Genest and I have spoken to him since he came back from holidays. We have spoken to him about this precise point. He bears out, or did to us, my statement to you earlier that he took no instructions from Hydro with respect to this, or indeed I think any other matter except in the dealing and the preparation of the agreement when he was taking instructions from Mr. ~~Mr.~~ Candy; but on this particular point, I think you will find, Mr. Shibley, and I am using my words carefully, that Mr. Houser will confirm that he had no instructions from Hydro or anyone at Hydro with respect to the provincial guarantees, *Mr.*

Mr. Shibley: In order to -- we are helping one another here and I would like you to ~~me~~ check this out.

Mr. Chairman: Mr. Allan, I haven't forgotten -- is your point on this or another matter?

Mr. Shibley: We might be able to clear this very quickly overnight, because there are a couple of things that exercised me about the topic. I will make it a matter of record. One is that it is clear that Mr. Houser did apply his mind to that clause, because he amended it in his September 15 draft. Secondly,

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DT

(Mr. Shibley)

that he submitted the draft to Hydro under cover of the letter of September 20th. We have had no indication, and I can't until I ask somebody or you ask somebody, as to whether they reviewed it in Hydro and why didn't they come forward for over a month and say - there is to be no guarantee.

The third thing, and this is something not known to you, and that is that it is spread through the Ames file down to October 23 that a provincial guarantee was part of the deal, and so that it is ^{clear} ~~that~~ that Canada Square for its part, and certainly Ames and Company for their part, were ~~was~~ working on the premise that there would be a provincial guarantee.

After October 23, there is a notation, "no provincial guarantee", at some date subsequent to that, so that the change was a change of circumstance not only with Mr. Bradshaw ~~and~~ but with Ames and Company and I am concerned, as Mr. Renwick is --

Mr. McCallum: After April 23, did you say?

Mr. Shibley: October --

Mr. McCallum: I thought you said April 23.

Mr. Shibley: October -- I am sorry if I did - October

23, which is the date Mr. Bradshaw says he first discovered that there was not to be one, so that I think it important to know what was the understanding and thinking of Hydro, what was the understanding and thinking of Canada Square, as well as Ames and Company, etc.; and that's the reason we are into this. If there is nothing to it, then we have got to cancel it out. In the meantime there was a ~~memorandum~~ memoranda, an entry in the memorandum referable to Treasury Board, October 1, which tied in as well, and you have got it all now, so if you could check that out, and I must tell you also that I'm interested in those minutes regarding the same general problem, Mr. Genest, so you can help us in that --

Mr. Genest: We'll check all ~~that~~ that.

Mr. McCallum: Since I'm Mr. Genest's amenuensis and I don't want to take --

Mr. Shibley: Only half.

Mr. McCallum: -- his speaking voice from him, but I have made notes heretofore that indicated that what you wanted searched out in the minutes were whether the ability to sue Hydro without consent -- now it was that aspect that I had notes of that I was to direct search.

Mr. Shibley: Let me explain what I believe happened and that is that once it ~~was~~ became known that there was not to be a provincial guarantee, the question of the ability to sue without consent became a more prominent problem and the fact that Hydro was ~~to~~ to be made a Crown corporation relieved that

(H-1909 to follow)



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M.F.

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(Mr. Shibley)

~~and the fact that Hydro was made to be made from the capital market~~
~~renewed that problem once that was announced. So again it is~~
part of it and yet it is a different way around the problem.

Mr. McCallum: So it is really both those topics if we may put it this way. You are looking for to see if there is any reference in the minutes?

Mr. Shibley: Yes, that is right.

Mr. McCallum: All right, sir.

Mr. Chairman: Now, Mr. Allan.

Mr. Allan: Mr. Chairman, my concern again is the amount of time we are spending discussing something which to me really doesn't need the time and care that we are giving to it. As I recollect the earlier evidence, the one reason of looking at this sort of deal that was made with Canada Square was that it could be done ~~without~~ without using up any Hydro credit.

Mr. Chairman: That was my understanding too.

Mr. Allan: And it was my understanding that no one had a chance from the beginning of getting any guarantee from the Ontario government for this operation and whoever decided - I don't know who said the word - but I don't think they had a chance at all from the very beginning.

Mr. Renwick: Well if I may, Mr. Allan, my understanding would be that by the use of the lease arrangement the ~~financial~~ has been created that Hydro's credit was not going to be a demand on the capital market.

Now the giving of the guarantee by the province of Ontario to the performance of that lease, that is the payment of rent, would not be a demand on the capital market either so far as Hydro would be concerned, but Mr. Allan in that case the lease arrangement accomplishes the purpose of no demand on the capital market and if the province of Ontario guarantees it that doesn't alter the fact that there is no demand on the

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(Mr. Renwick)

capital market to the extent that that was of concern to the government and to Hydro. But what does concern me is that this problem that - and I assume why Mr. Bradshaw was surprised was the point about not being able to sue Hydro without the consent of the government.

Mr. McCallum: He may have been but I think I am quite accurate when I tell you that never at any time in the discussions that we had did Mr. Bradshaw ever raise that point. If he did, sir, I don't remember it ever being raised in my presence, and that makes me wonder really whether it had that kind of importance in his mind or, if it did, if he didn't tell Hydro about it.

Mr. Renwick: Well all I am saying is there would be no particular occasion for him to raise it since the draft of the document for a period of two or three months contained the guarantee of the province in the document.

Mr. McCallum: You would have thought that when he was told, whenever and by whom he was told, that it had to come out that at that point in time he might have then told us how important it was to him. I don't ever remember that happening you see, that is the point I am making.

Mr. Shibley: Mr. McCallum, I would ask you to check that before you go because -----

----- would
Mr. McCallum: I will, I ~~will~~ be careful what I said.

Mr. Shibley: Because I should tell you that there is memoranda - I am not relying on less than that - as late as - well on October 30th, 1972, -----

Mr. McCallum: That says what?

Mr. Shibley: That raises this problem of being able to sue ~~bank~~ and the sections of the Act are referenced.

Mr. Finlayson: Are those Mr. Bradshaw's memos?

Mr. Shibley: No. I can tell you that the lending institution, the ultimate lending institution, and its agent, were

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M.F.

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(Mr. Shibley)

concerned about this problem of the ability to sue Hydro
without consent.

Mr. McCallum: Oh, Mr. Shibley, I understand -----

Mr. Shibley: So that I thought I gave you the dates
also. ~~It is raised repeatedly~~ It is raised repeatedly -----

Mr. McCallum: ~~It is raised repeatedly~~ In the Ames papers.

Mr. Shibley: Yes.

Mr. McCallum: Yes, sir, I have made a note ~~that~~ of the
23rd and the 30th.

Mr. Shibley: And I find it difficult to think that
it being a problem raised with Ames that they did not in turn
raise it with Canada Square at least and then from there they
may have raised it with Hydro as well.

Mr. McCallum: Well, sir, I am the last one you see in the

Tape H - 1910 follows

H-1910-1

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5:30 - 5:35 p.m.
B.G.

~~(Mr. Shibley):~~

~~And then Mr. Shibley: And then I don't think I should say that~~
~~raised at that time Hydro as well.~~

Mr. McCallum: Yes, well of course, it was only the last one you see, that I was expressing some doubt whether it happened. I have no knowledge of the connection between Ames and Canada Square. I was expressing to the Chairman and to the members of the committee and Mr. Renwick, in particular, my present doubt, without looking at any papers, whether that was ever raised to me as representing Hydro. That was really as far as I was then involved.

Mr. Shibley: Well, I thought in fairness to you I should tell you that because you don't have the benefit of the Ames file and I do.

Mr. McCallum: Yes, of course.

Mr. Shibley: And I just tell you that it was a matter of considerable concern to them in early November 1972, and I thought I made that clear, that the way they felt the problem had been overcome, was when Task Force Hydro came in with its first report, and it was published in the press that the government was going to approve of that, go along with it, that press clipping was sent to the lending institution and that seemed to satisfy the problem.

Mr. Allan: Well, Mr. Chairman, what I intended to say further was that the money has been arranged for at a rate that is as good as any person could possibly expect, and whether there is a government guarantee or ~~whether~~ whether there isn't, we have a satisfactory financial arrangement, as far as the construction of this building is concerned. And I just can't convince myself that we are gaining anything by discussing this and discussing it and discussing it; a half an afternoon we have spent on this.

Mr. Chairman: Well, we've spent some time on it now and I think that if we want more direct information on it, we can get it from other people, perhaps -

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B.G.

H-19102-2

Mr. Allan: ~~Well~~ but the deal is consummated. The sale is satisfactory. Now, how much better could you have done? Any one have done?

Mr. Chairman: All right, well I think -

Mr. Renwick: Well, Mr. Chairman, I can understand and it may be that I laboured the point too long or collectively, ~~see~~ those of us that have, my concern is strictly the one of the relationship between the Government of Ontario and Ontario Hydro. It's quite clear from the evidence of Mr. Gathercole and Mr. Davis that each of them pointedly referred to the fact that Hydro was an independent entity in law, and that therefore the responsibility for this ~~whole~~ ~~whole~~ building was in Hydro's lap, and the government wasn't involved.

Now, that's been the position as stated by Mr. Davis and Mr. Gathercole. Now, ~~without~~ without anybody assuming that that's a conclusion of mine, that is the evidence; I don't have to agree with their interpretation of it, but that's a different matter.

Now, ~~and~~ one of the ways in which the government would inevitably have been involved is if the guarantee was to continue in those documents. You couldn't get the guarantee without the government having to review the whole of the matter very carefully, before they would give the guarantee to this transaction, ~~and~~ therefore I am concerned whether or not this consistent position, taken by Mr. Davis and Mr. Gathercole, that the responsibility was Hydro's, was at ~~any~~ cross-purposes with the assumption, ~~throughout~~ that there was to have been a guarantee given and somebody said, "Oh no, there is going to be no government guarantee", and all I'm trying to find out is who said it. Now, Mr. McCallum said that he's the one who said it, on his own and from his knowledge of his instructions and that's that all there was to it. But Mr. Bradshaw indicated that he received his advice from someone whom I took to be other than Mr. McCallum, when he referred to October 22nd, ~~that~~ the Saturday or the Sunday, and all I'm trying to find out is who. Mr. ~~McCallum~~ obviously said no, about October 23rd. ~~Is that correct?~~

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M.R.

(Mr. Renwick)

~~about October 22~~ I just wanted to know whether somebody else ...

Mr. Allan: Mr. McCallum may have had the same feeling that I had from the very beginning, that there was never a possibility of ...

Mr. McCallum: I did, sir.

Mr. Allan: Yes, I think that that was his - he could easily have had that understanding. If I had been in *Mr. McCallum's*

Mr. Chairman: Maybe nobody but Mr. Moog ever said that there was a possibility.

Mr. Moog: I didn't *believe there would be either, seriously.*
I tried it on for size and that's what *he* said.

Mr. Genest: That's what Mr. Moog said; he tried to *float a*
balloon.

Mr. Renwick: All I'm saying is, Mr. Finlayson had me so intimidated that day that I didn't ask Mr. Bradshaw who the hell had told him ...

Mr. Chairman: Well, Mr. Renwick, all I'm saying, I think we are wasting time on it now because if we still want to press the point we can get it from somebody like Mr. Houser or somebody else who might give us more direct personal knowledge on it, so I would suggest we go back to Mr. Shibley and let him proceed.

Mr. Shibley: I'm sorry to stay with the topic for just a moment because my memory recalled a document, another document from Mr. Bradshaw's file, and he has initialed it at the top, "JAB, October 23, 1972", and it's styled "Ontario Hydro Canada Square Items for discussion".

I have the *belief* that this may well have been a document prepared by Mr. McCallum or Mr. Houser outlining 23 - 22 points of change, ~~the~~ The third item is - I'll read it it's a one sentence.. - "Delete Province of Ontario as a party throughout the entire agreement and schedules". So that from Bradshaw's file and he puts his initials ~~the~~ and a date on it,

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M.R.

(Mr. Shibley)

October 23, which is probably he gave that as the date he found out about it, but there is a document in existence, and perhaps Mr. McCallum can help us, where in the third item this deals with different things to be dealt with within the documentation ...

Mr. McCallum: Yes, sir.

Mr. Shibley: Have you ever seen that document?

Mr. McCallum: I think I have. Yes, I think this was prepared by Mr. Houser's secretary. It looks like her typewriter, sir. And I wouldn't be at all surprised but what Mr. Houser, after discussions with me, prepared this agenda for discussions, just as it says. I wouldn't be at all surprised.

Mr. Shibley: Well, I don't think there is anything in this that is - that shouldn't be produced, but in any event, for present purposes, Item 3 in it reads: "Delete Province of Ontario as a party throughout the entire agreement and schedules."

Mr. McCallum: Mm-mmh.

Mr. Shibley: Which seems to suggest that up until this time the Province of Ontario was named as a party in the agreement and the schedules. I don't know, but I just tell you ...

Mr. Allan: But, Mr. Shibley, wasn't - it was named by persons who didn't have any idea as to whether - ~~whether~~ what the ~~the~~ final decision was going to be.

Mr. Shibley: Mr. Allan, I -

Mr. Allan: ... in the drafts.

Mr. Shibley: I remind you that the agreements are all dated October 18, 1972.

Mr. Allan: Yes, but they were still drafts at this time.

Mr. Shibley: Oh, no. On October 18 is a date given the formal agreements, and I just tell you that it's very late in the day to be talking about this kind of a substantial change in terms and parties to the agreement.

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M.R.

(Mr. Shibley)

So I can't agree with your comments, directed more I think to Mr. Renwick than to I, because I left off with this witness on this topic. But I think there is sufficient there, as Mr. Renwick has indicated, for us to pursue it a little further at least, till we get it cleaned up.

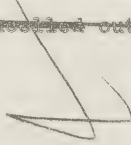
Now, I have spoken to ^{Brian} ~~James~~ Armstrong and he tells me, as Mr. Fleck said, that they have checked and there was never anything tabled for Treasury, at least Management Board, at any time in connection with the guarantee of the province. But it does appear that it was part of the document almost to the bitter end, so to speak, that Ontario was to be providing a guarantee and I think we've got to clean it out.

Mr. W. Hodgson: It might have been hoped. It was hoped that Ontario would give a guarantee.

Mr. Shibley: Well, I think it went beyond that, Mr. Hodgson, in terms of ...

Mr. Allan: Isn't it a little bit difficult to get an agreement and to have some person provide a guarantee that ~~by~~ you have never even discussed it with?

Mr. Shibley: Well, Mr. Allan, you see, in your usual forthright fashion, you are accepting things as they appear on their face. ~~I think that Mr. Renwick, in coming to investigate is whether there were arrangements for a guarantee which were cancelled out ...~~



H-1912 to follow

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B.A.

H-1912-17

(Mr. Shibley)

I think what Mr. Renwick is wanting to investigate is whether there were arrangements for a ~~guarantee~~ guarantee which were cancelled out.

Mr. McCallum: Mr. Shibley, isn't the point - let me get into this for a minute ^{because} ~~because~~ we are trying to help you every way we can - is not the point really whether Hydro, surely the only ~~one~~ remaining thing is whether Hydro was ~~never~~ brought to their attention and they instructed us to see that it was taken out. Isn't that Mr. Renwick's point? He is looking to see if there is a bridge from Hydro, as I made a note of it, to Canada Square to take these things out and Hydro instructed me or Houser or both of us to do that, and then he has the prospect that the government are behind that, either government or Hydro. As I understand it, that is what he is looking for. Surely that is all there is left. In other words, you have ~~just~~ talked about aims in the sense of reminding me and warning me that we should look carefully at any memos or recollections we have, and I appreciate that, but I didn't think that you were making it in the sense ~~of~~ of saying that was a point other than I should be aware of that those things were happening up to the 23rd. Just as you very kindly produced this to remind me that this appeared to have been prepared in our office.

Mr. Shibley: Yes.

Mr. McCallum: Okay, sir, I guess I have the grasp of it then.

Mr. Chairman. Then, can we move on ~~to~~ from this now, and clear it up shortly with Mr. Houser.

Mr. Shibley: Just to clear up a few short points in the limited time available, Mr. Moog. There was a reference to the Ministry of Government Services in a May letter from Mr. Gathard to Premier Davis, and there were notations made on June 9th that you have ^{heard} ~~was~~ referenced in the evidence. Did anyone in Canada

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B.A.

(Mr. Shibley)

Square ever have any communication with or from anyone in the Ministry of Government Services referable to the Hydro head office building?

Mr. Moog: No, sir, not to my knowledge.

Mr. Shibley: They never contacted you.

Mr. Moog: No, sir.

Mr. Shibley: You had no exercise with them whatsoever.

Mr. Moog: None whatsoever.

Mr. Shibley: Then, with respect to Hydro's pension fund. There have been references, as you know, throughout the evidence as to the possibility of using the pension moneys of Hydro in whole or in part to fund this project. You remember the references without me ~~was~~ going into them. I want to know whether you at any time indicated to any of the lending institutions with which you were negotiating or their agents, that pension moneys of Ontario Hydro might be made available for this project?

Mr. Moog: Not that I can recall, Mr. Shibley.

Mr. Shibley: So that, so far as your recollection is concerned, Hydro pension funds never formed any part of any ~~was~~ discussion that you had with anyone referable to the funding of Hydro head office building.

Mr. Moog: Not to the best of my recollection.

Mr. Shibley: Now, Mr. Chairman, I have had retyped the letters referable to the commitment, and perhaps before they are produced to others they might first be produced to Mr. Moog and to his counsel, Mr. Finlayson. First is a letter dated November 8, 1972, which we might call the offering letter.

Mr. Chairman: These have to do with the final financing?

Mr. Shibley: Yes, that is correct.

Mr. Finlayson: Mr. Chairman, as I recall, there was a suggestion made some time ago that this ~~particular~~ particular letter would be retyped.

Mr. Shibley: It is retyped.

Mr. Finlayson. I appreciate that. Would be retyped and references to the actual company would be deleted. I said then, I don't recall precisely what I said, but I have always been opposed, with great respect to this letter even edited as it is now, from being introduced into evidence. I don't, with great respect, see how it ~~is~~ assists this committee

(H-1913 follows)

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5:45 - 5:50 pm
M.S.

(Mr. Finlayson)

~~I don't, with great respect, see how it assists this~~
committee in any way to have this thing formerly marked
as an exhibit. Because you've all seen it. This was
discussed when we were in camera, and Mr. Moog explained
in some detail ---

Mr. Deans: I don't believe we saw the letter
when we were in camera. I think we said, in fact, we didn't
want to see it, if I remember correctly.

Mr. Finlayson: Well, in any event, it was
discussed when we were in camera and Mr. Moog went to
great pains to point out to you all why this was so
detrimental and that he just doesn't want the terms of
this arrangement to be a public matter when we don't have
the bond purchase agreement executed. And, with great
respect, I don't see how it assists you to ~~make~~ make this
a public document. I don't see how it assists the committee
in arriving at any particular conclusion that they have to
arrive at, to know what the precise terms of this document
are. Rather, I don't care if the committee knows about it,
but to make it a matter of public record. I understand the
concern expressed by some of the members, the difficulty of
a committee of 11, that if it is made available to the
committee and it should subsequently be a matter of public
record, that it puts everybody under ^{BIT OF A} a cloud as to who is
responsible for it becoming a matter of public record.

But I repeat what I said before, Mr. Chairman.
I don't see why this has to be marked as an exhibit or why
it has to be read into the public record.

Mr. Chairman: Well, as I understand it, the
intermediate company that's to be called, and there may be
some cross-examination on it by counsel, as I understand it.
And it was the point that you did not want to be mentioned

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M.S.

(Mr. Chairman)

was the name of the ultimate financing company. ~~But~~ I know there was some discussion about Mr. Moog not wishing any of the terms to be made public, but I don't know whether the committee at any time bought that submission.

Mr. Finlayson: Mr. Chairman, as Mr. Moog has pointed out, even with the attempts ~~made~~ that have been made, bona fide as they are, to conceal the identity of company X, if this letter is read into the record, and when one considers what other things have been said about it and the magnitude of the loan that is being made, you don't have to be a very ^{sophisticated} ~~sophisticated~~ member of the investment public to know who the company is and what the deal was. And as you will recall, Mr. Moog's concern was that any time between now and 1975 when this money is to be advanced, some person who is a long term customer of this particular lending institution, who wants to renew a mortgage or renew a loan which has become due, or to enter into a new one, will take this down and shove it under the nose of the appropriate committee in company X and say, look, there's no reason why you shouldn't make for me just as good a deal ~~was~~ you are prepared to make for Mr. Moog. And they are going to use this as a lever to get the same kind of terms, including that 8 per cent interest rate, any time between now and 1975. And if that kind of pressure is put on the lending institution by other people who have the right to command some loyalty from this lending institution, their reaction is going to be to back away from this commitment to Mr. Moog.

In other words, it puts pressure on them, either to say, well, we're not ^{too} ~~sure~~ if we're going to go through with this with Mr. Moog. Or it puts pressure on them to make the same deal with somebody else.

Max

Mr. Chairman: Of course that last argument is the argument that any bank or financial institution meets every day of the week. With one client knowing what some other client may have got from the bank manager last week, and I think the financial institutions are quite prepared and used to dealing with that kind of bargaining. I don't know what's in this letter, and I don't know what other terms may be there that may or may not be detrimental. But as far as some other person going to the ultimate financing company sometime forward and saying, here, you must be prepared to do the same for me, I don't think they have to point to very many differences to say the circumstances are not all within four square of the present situation.

I don't know what to say about it. Mr. Shibley.....

Tape H 1914 follows

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DT

(Mr. Chairman)

~~I don't know what to say about it. Mr. Shibley --~~

Mr. Finlayson: ^{Perhaps} Mr. Shibley could proceed without actually marking this as an exhibit?

Mr. Chairman: Well, that's what I was just going to ask him. Can you do some examining of the intermediate finance company, or the agents, whatever their correct title is, without -- they, I assume, know this document -- without the committee having it before them?

Mr. Shibley: Mr. Chairman, I am going to say this, that these documents will be made exhibits ultimately, I feel confident about that. I am prepared to wait until I call Ames and Company to introduce them through them, because they are equally able to prove the documents in the particular circumstances.

I am sorry that I have to refuse to accept the ~~real~~ representations made by Mr. Finlayson because my information from Ames and Company is that when they received notification from the clerk that they would be called as witnesses, they communicated with the lending institution, indicating that in the course of giving their evidence it might be necessary to disclose the identity of that entity, and their advice and information and instruction as of mid-July was that that institution had no objection to its identity being known. So that what Mr. Finlayson has said is not something that I can accept, unless the institution has had a change of attitude since mid-July of this year, when Ames and Company, whose representatives I have interviewed during the recess, were in communication with them and they indicated to Ames and Company that they had no objection to being identified publicly as the institution.

Now, I have attempted to reach the solicitor in Boston Elliott, or at least Mr. Bell has, to have him come to the committee and confirm that even as of this time there is no such objection. Unfortunately he is away on holiday until a week today and it had been my hope that by having him come down here and go on record that the lending institution itself has no objection to being identified, that we could get rid of a lot of the haze that has

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(Mr. Shibley)

been created by the position which has been taken on behalf of Canada ~~Square~~ Square.

Now, I tell you that now and will do this, that I will wait until I call Ames and I will ask them -- incidentally, they didn't want to follow up and, so to speak, make current their instruction, but their evidence will be that as at mid-July, when this committee was in session and they were expecting to be called, that they were in touch with X Company and that was their instruction.

Mr. Chairman: Well, let's say I have no objections but I wondered are they prepared to say that it won't affect their dealings with Canada Square?

Mr. Moog: A very good point.

Mr. W. Newman: That is my ~~point~~ *point*, Mr. Chairman.

Mr. Shibley: I will tell you something else, that I ~~am~~ think you will be very interested in the evidence of Ames and Company as to the binding effect of the commitment. I am not going to say more about it at ~~this~~ this time, but again I think if anything that maybe even Mr. Moog will be interested in the evidence.

Mr. Moog: Mr. Shibley, I am sure that anything which is positive, I have interest in. I also would say this, their ~~stake~~ *stake* isn't our stakes or Hydro's stakes. *It's an entirely different situation, I tell you.*

Mr. Shibley: I tell you these things now because I hear Mr. Finlayson taking these positions, but I am aware of what other people have said about the same problem and quite frankly, as I say, I am not taking anything away from Mr. Moog's concern. Maybe in the same way as I have relaxed some of the concerns of, ~~letting Mr. Harcourt Roy~~

(H-1915 to follow)

H-1915-1

(Mr. Shibley)

~~some of the concerns of~~ let's say Hanscomb Roy, vis a vis Canada Square. I think before we are through we may be able to relax some of the concerns of Canada Square vis a vis the lending institutions.

Mr. Moog: You show me a signed bond purchase agreement and you can table everything.

Mr. Shibley: Well Mr. Moog, I only say that to the members of this committee and to the chairman, because I cannot accept the representations made in respect of the need for confidentiality of these documents. On the other hand, I must tell the committee that I really can't see how you can intelligently deal with the matter without the full documentation. I'll think on it a little further.

Mr. Chairman: I wondered if you needed the full documentation from Mr. Moog.

Mr. Shibley: As I say, I think it can be left because as it happens these commitments are really made through Ames and Company and they are, if anything, better able to prove the documents than Mr. Moog is, when I think on it, and perhaps by that time what I have said to you can be a matter of record, and we don't have the problem. But I just don't think there is anything in the problem that has been raised.

Mr. W. Newman: Mr. Chairman, I come back to the question, Mr. Shibley says that company X has no objection to releasing the name of their company.

Mr. Shibley: Yes.

Mr. W. Newman: That may be just fine and dandy because it might release them from their obligation to Canada Square. Now have you looked into that aspect of it?

Mr. Shibley: Yes, I have asked Ames and Company in that respect, and they have certain evidence to give that I think will be very interesting to all concerned.

Mr. Moog: And have their lawyers here on top of it.

Mr. Shibley: And again I feel as long as they repeat under oath what was said to Mr. Bell and I, I don't think there is a problem.

H-1915-2

Mr. Moog: Well ~~it's~~ ~~going to put up the~~ ~~money~~ ^{though} the E.A. Ames Company isn't. Let's not forget that.

Mr. Chairman: Gentlemen of the committee. It is five to six. You have other fields in any event that you can proceed with Mr. Moog tomorrow.

Mr. R.G. Hodgson: I wonder if I might ask a question. We talked earlier about the piece out of the ~~file~~ file and I would like to ask a question about the file itself.

Mr. Moog, the Globe and Mail wrote an editorial on Wednesday, July 25, and the heading was "Improper Demand for File". Were you in touch with ~~the~~ the, or did someone from the editorial staff of the Globe and Mail contact you with regard to this? Or were you talking to anyone?

Mr. Moog: From the editorial department?

Mr. R.G. Hodgson: Yes.

Mr. Moog: You mean the people who wrote that article?

Mr. R.G. Hodgson: Right.

Mr. Moog: No sir.

Mr. R.G. Hodgson: Thank you.

Mr. Deans: Or anyone else associated with the editorial department, not necessarily those who wrote the article?

Mr. Moog: I don't know the gentleman who wrote this article.

Mr. R.G. Hodgson: That's not the answer, that's not the question because it seemed rather pertinent in regard to what the discussion was today, and I just asked that question, Mr. Chairman.

Mr. Chairman: I think you left the unanswered question, were you talking to anyone from the Globe and Mail about the editorial or about the confidentiality of your files?

Mr. Moog: I didn't have any idea what they were going to write about in their editorial. I know some people from the Globe Mail, but I don't think they have any influence at all on what the editorial department writes ^{and does}.

Mr. Chairman: Were you talking....

Mr. Bullbrook: No, ~~but~~ ^{he} you can answer that question directly.

Mr. Moog: I know people from the Globe and Mail.

H-1915-3

Mr. Bullbrook: ~~No, no;~~ ^{No, no;} but that wasn't the question.

Mr. Moog: ~~Whether~~ ^{Whether} I talked to anybody who wrote that article? No, sir.

Mr. Bullbrook: Well answer the chairman's question ~~directly~~ ^{directly}.

Mr. Chairman: I was asking you whether you spoke to anybody from the Globe and Mail about the confidentiality of your files? Did anybody contact you in connection with it? Were you talking to anybody?

Mr. Finlayson: Mr. Chairman, what is this inquiry turning into? Is the Globe and Mail now in some jeopardy?

Mr. Chairman: No, no. I don't know the reason, ~~what~~ for Mr. Hodgson's question, but he asked the question.. Let me get the answer to this one first if I may.

Mr. Finlayson: With great respect, I don't know why my client at the end of the day is being asked to explain editorials in the Globe and Mail or the Star or anything.

Mr. B.G. Hodgson: That wasn't the question. I asked if ~~he~~ ^{he} anyone from the Globe and Mail editorial staff, or had he talked to anyone from the Globe and Mail editorial staff about the editorial of Wednesday, July 25, which is "Improper Demand for a File". That is simply the question I asked. And Mr. Moog told me no. But I might refer to one pertinent section I think which is in that editorial, and I will read it into the record:

"Files can contain anything and everything. If files are to be demanded by legislative committees then the ordinary citizen can ~~be asked to produce~~ ^{be asked to produce} them."

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B.G.

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(Mr. G. ~~Hodgson~~ Hodgson)

.. ~~filed in the committee~~
~~defended the committee~~
defend himself from unwarranted invasion of his privacy only by
destroying everything in them that does not relate to the question
at issue. "

Mr. Moog: There was no discussion on that ~~the~~ item at all.

Mr. Chairman: Would you answer my question, yes or no?

Mr. Moog: I do know somebody from the ~~the~~ Globe & Mail ~~with~~
personally ~~but~~ ^{yes I do} I have not discussed that editorial.

Mr. Chairman: No, but did they contact you or did you
contact them?

Mr. Moog: No.

Mr. Chairman: Did you discuss anything about -

Mr. Moog: No; no. Nothing to do with editorials.

Mr. Chairman: The answer to my question ~~originally~~
originally I asked you was no, ^{then} Is that right?

Mr. Moog: That's right.

Mr. G. Hodgson: I thought it was curious that they took
your defence, Mr. Moog.

Mr. Moog: Maybe it's theirs, too.

Mr. Finlayson: Well, you read the Toronto Star. Let's
call somebody up from them and ask them about their editorials.

Mr. Chairman: Gentlemen, we are adjourned until -

Mr. W. Newman: No, wait a minute, Mr. Chairman.

Mr. Chairman: Oh, I am sorry, Mr. Newman.

Mr. W. Newman: I have a few comments to make before we
adjourn ~~to~~ tonight. I am sorry. I have been very quiet all day.
A couple of things I would like to ~~ask~~ ^{first} ask about, Mr. Chairman.
We have a short week next week, I would like you to consider night
sittings. Next Friday certain people on this committee have very
serious obligations they have to be at.

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Mr. Renwick: Well, we can sit that night all right.

Mr. W. Newman: I would like to continue with Mr. Moog and, of course, finish that. I would like to get back to an executive session as soon as possible, as soon as Mr. Moog has finished, to deal with our terms of reference. And Mr. Chairman, the third thing I would ask for, and I ~~am~~ would ask you for it, is the cost of this hearing up to date, as of Thursday ~~night~~ of this week. The total cost to the Province of Ontario, not Mr. Moog's lawyers or anything else, but the total cost of this hearing.

Mr. Chairman: Well, I will be glad to attempt to get what information we have to date. I think the big costs are probably not known yet, ~~are~~ ^{or} not even in, but I will try to get what costs are in.

Mr. W. Newman: Mr. Chairman, I realize you can't get certain Hansard costs and the staff and so on and so forth. I would like the basic costs that have cost this hearing up to Thursday night of this week.

Mr. Shibley: Well, I ~~am~~ going to tell you right now, that

Mr. Bullbrook: Well, I would think that with your influence you could get ~~that~~ ^{that} much more ~~and~~ readily ^{than} the Chairman, my goodness.

Mr. W. Newman: I am asking the chairman, Mr. Bullbrook, because —

Mr. Bullbrook: You are a parliamentary assistant. You have extreme influence with the Government of Ontario. They would tell you right off the bat.

Mr. W. Hodgson: It's not a case of influence at all.

Mr. W. Newman: It's just a matter of fact.

Mr. Chairman: Well, Mr. Newman, I hear you and I will try and get what information is available.

Mr. W. Newman: Well, Mr. Chairman, I would like to pursue that. I am sorry. I would like to pursue the costs of this enquiry up to date, and I am prepared to sit here, ~~and I am prepared to sit~~ ^{if we have to sit} here all winter and somebody asked to-day if we are going to have Good Friday off, and I'm very interested in getting all the facts

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and all the figures so that we can make a proper report to the House of this Legislature, and I am also inclined to be worried about the people of the Province of Ontario, what this might be costing. And surely we can have ~~any~~ some idea of cost; we must know now, we know what we get paid a day as members of this ~~the~~ select committee, and those of you who are lawyers are ~~the~~ suffering, and those of us who are not, are still suffering. I can't ask on Mr. Moog's behalf because that's his ^s own personal costs, but as far as Hydro is concerned, I think Hydro is a public corporation; we must know what their costs are up to date, as well as this committee and the staff involved.

Mr. Renwick: Well, Mr. Chairman, could I ask Mr. Newman a very blunt question. What's bugging him?

Mr. W. Newman: Do you know what's bugging me?

Mr. Renwick: Yes, I want to know.

Mr. W. Newman: You would like to know, would you?

Mr. Renwick: Yes.

Mr. W. Newman: You would really like to know?

~~Mr.~~ Mr. Renwick: Yes, I mean we are —

Mr. W. Newman: Have you ever~~y~~ looked at your terms of reference of this committee?

Mr. Renwick: Wait a minute.

Mr. W. Newman: Did you every~~y~~ hear, ^{just} let me finish, you asked me a question. Did you ever listen to Mr. Davis give his testimony ^{of} what he thought the terms of reference of this committee are?

Mr. Deans: I don't care what Mr. Davis says, ^{then} ~~then~~

Mr. W. Newman: Well, all right, ^I am talking about the terms of reference here in your book, if you want to look them up there are six points of terms of reference that we have. And many of those points, yes, they are right here, they are written up.

Mr. Bullbrook: Well, may I say ~~something~~ something?

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Mr. W. Newman: And I am just asking for the - no, may I finish?

Oh,
Mr. Bullbrook: I thought you were finished, I am sorry.
asking for

Mr. W. Newman: I am just asking for these costs; Mr. Chairman, I am asking for these costs as of this Thursday night. We will have a chance to ~~look at~~ ^{look at} them over the weekend.

Mr. Bullbrook: Well, the cost of our deliberations as far as the public - You are quite warranted in being concerned. I think we all are, But you have got to recognize that we have a responsibility here that can't be in any way restricted or ~~limited~~ ^{limited as} to the expenditure of public funds here. I want to give you one example, one example only, that came to light yesterday. Right? And was made ~~very~~ ^{very} obvious yesterday, right? That in appraising the value of that building, the cost of securing the permanent financing is normally a million dollars, right? And this company paid \$100,000 for it. Now, that's public funds eventually, in assessing the total value of that building, to the tune of \$900,000.

Mr. Genest: ~~That point is debatable. That point is~~ No, you're wrong. You're wrong.

Mr. W. Newman: That point is debatable. That point is debatable.

Mr. Bullbrook: Let me say this to you, let me say this to you, if I may, The cost of this enquiry, having regard to our responsibility, and having regard to the expenditures of the Government of Ontario, in many less serious matters, is infinitesimal.

Mr. W. Newman: You are saying ^{"What?"} ~~that~~ a million are paid? Is that what you're saying?

Renwick:
Mr. Bullbrook: No, Mr. Chairman, - Mr. Chairman - Gentleman,

Mr. Chairman: ~~Mr. Newman~~ Mr. Renwick,

Mr. Renwick: ~~Mr. Newman~~ Mr. Newman seems to be under the impression that I'm sitting here and that we have all come here collectively to have a game. Well, I'm here because a resolution of the Assembly required us to be here and the resolution was

(Tape H-1917 follows)

H-1917-1

(Mr. Renwick)

~~Mr. Renwick:~~ I am here because a resolution of the Assembly required us to be here and the resolution was introduced by the Premier of the province. Now, if what is bugging Mr. Newman, and with great respect he hasn't yet said ~~me~~ what is bugging him, what is bugging him is not the cost of it. You just think it is taking too long.

Mr. Wm. Newman: I already said, Mr. Renwick, that I am prepared to stay here until next April to get all the facts. I have said that and I made it very clear.

Mr. Renwick: Well, then, is the question of cost relevant at this point? Mustn't we keep our eye on the ball of getting the report made and not get diverted into a question of debate about the costs? What can we do about the costs? The only way we can cut down the cost is to get the god-damned report done and tabled in the Legislature. That is the only way.

CHAIRMAN
Mr. Chairman: Gentlemen, I think we have made great progress today.

Mr. Newman: Mr. Chairman, one point here. I am asking about one element of it. I realize that you want a full and comprehensive report and so do I. I am asking about one element, ~~and~~ I want to know what it has cost to date. Is that fair enough?

Mr. Renwick: It sounds to me to be a very argumentative matter.
Mr. Chairman.

Mr. Chairman: I don't know how I can get what it cost to date but, because.....

Mr. Bullbrook: You can get the lawyers to submit their accounts.

Mr. Chairman: ... many accounts are not in yet for work to date, but I can certainly get, I suppose, from the Treasury, the Government Services, the amount that has been spent to date.

Mr. R. G. Hodgson: Mr. Chairman, I really think it would be a distorted figure, because I think unless you have all the evidence in on what the costs are, I don't think you can give that at this point in time.

Mr. Chairman: Well, it certainly is not completed.

Mr. R. G. Hodgson: And certainly you haven't got my expense sheet for this week.

Mr. Allen: Mr. Chairman, you must remember that the temperature is higher today than it has been on any day for a great many years. Don't forget that, and it will be cooler tomorrow.

Mr. Chairman: But I also know this, Mr. Allen, that ~~the~~ it is cooler down here and it is cooler outside, so it might be wise to stay here a little longer. Mr. Newman you had three questions, what was the next.

^{Wm.}
Mr. Newman: Yes, what about night sittings, Mr. Chairman?

Mr. Chairman: I am prepared to do night sittings provided we are not dealing with one -- well, my concern is that we should not have one witness in the box for so long.

^{Wm.}
Mr. Newman: Mr. Chairman, we are talking time frames, that may not be necessary.

Mr. Chairman: It may not be.

Mr. Renwick: Mr. Chairman, I can't on Tuesday night, or on Wednesday night, or on Thursday night, of next week, and frankly, by the time I have had ~~at~~ six or seven hours in this room that is all I am prepared to put up with.

Mr. Chairman: There is a strain on counsel as well. Now, you say night sittings. Actually, we have made good progress today and yesterday, and I am in hope that we can keep the time frame that I have in mind, and I have ~~said~~ said it publicly, the 14th. I hope we will be through our investigation by that time, that is, the oral elements. I hear laughter, and I have been proved wrong on many occasions, but I realize, as do the rest of you, that this must come to an end some time. We all have other commitments as well, and there is -- you know, you could investigate this matter, carry on for ever and ever if you wanted to, but there is no wish of the chairman there is no wish of the committee members nor is there wish of counsel to do that, and, as I say, we have made good progress today.

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B.A.

(Mr. Chairman)

We didn't run into a road block until the very last end, and I was..

^{Wm.}
Mr. Newman: Thank you, Mr. Chairman.

Mr. Chairman: No, I wasn't referring to your remarks, I was referring to the question of the production of the letter, and I was seeking for a way to get around that and I think maybe we have found ways to get around that. If you will just let us go as we are going I think we ~~will~~ are doing very well.

You had a third ~~at~~ point.

^{Wm.}
Mr. Newman: My third point was that I would like to hear Mr. Moog our first before we go into executive session. I would like to see us go into executive session and get back to our terms of reference and discuss.....

Mr. Chairman: I would like to keep ^{out of} ~~with~~ the executive session myself, but I have a list of three or four things that I have listed that if, as and when we do go there that I, myself, want to raise; let's see how we get along and I think we will have to make provision.

Mr. Renwick: If we are going to have an executive session, let's have dinner with it.

Mr. Chairman: Without objection, may I send you ^(all) out to the inferno outside, that is where I wish you would all go.

The committee adjourned at 6.10 p.m.

PEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clark of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Carrio Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Gregory Rice
G.D. Finlayson, QC

President, Canada Square Corp. Ltd.:

Gerhard W. Moog

Executive officer, Office of the Premier:

Brian Armstrong

Set of exhibits introduced during this sitting appears on
the next page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
216.	1887-2	List of offices of G. W. Moog companies
217.	1898-2	Letter - September 20, 1972 - From E. Häuser, Q.C., to Campbell, Godfrey and Lewtas - re proposed agreement for Ontario Hydro head office building

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, August 29, 1973

Morning session

1918-1948

Aug. 29/73
10:07 - 10:15 am
M.S.

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:07 o'clock, a.m.,
in the members' board room.

Mr. Chairman: Ladies and gentlemen, we have
a quorum here, and we have Mr. Allan here. So I am prepared
to call the meeting to order and I now do.

Mr. Shibley: Mr. Chairman, this morning I
succeeded in communicating with the firm of Borden and
Elliot, that represent X company, and, in particular, Mr.
Simon Scott of that firm, whom I have asked to communicate
with X company and be here this morning to advise the
committee as to the position of that company, respecting
(a) the disclosure of it's name and (b) the production of
the commitment letters.

Mr. Simon Scott is sitting in the witness
chair. He is a solicitor. I don't ~~but~~ think it's necessary
to swear him in and I would ask Mr. Scott ---

Mr. Chairman: Well, why don't I just follow
the same procedure. He's in the witness chair.

SIMON BERNARD SCOTT, sworn

Mr. Shibley: Mr. Scott, you are a ---

Mr. Wm. Newman: Mr. Chairman, can I ask a
question. I understood we were going to go on. I didn't
know about this change in procedure this morning.

Mr. Shibley: Five minutes, that's all.

Mr. Wm. Newman: Fine.

Mr. Shibley: I'm not going to establish anything
more than what I said.

Mr. R.G. Hodgson: We are running ~~the law firms down one by one~~ *you see*

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Mr. Shibley: Mr. Scott, you are a barrister and solicitor duly qualified to practice law in the Province of Ontario?

Mr. Finlayson: Sorry, Mr. Chairman, I didn't know that the meeting had been called to order, and I was just sitting out in the lobby with my other counsel. I thought we were going to proceed again with Mr. Moog.

Mr. Chairman: We will be very shortly. We will be. But this was to clear up one of the objections that you raised yesterday.

Mr. Shibley: Did you answer yes to that?

Mr. Scott: Yes, that's correct.

Mr. Finlayson: Might I ask who this man is?

Mr. Shibley: Well, I'm just going to establish it if you'll listen. Mr. Scott, what firm are you with?

Mr. Scott: Borden and Elliot.

Mr. Shibley: And does that firm represent the company which is to provide the permanent financing for the Ontario Hydro building?

Mr. Scott: That's correct.

Mr. Shibley: Have you been in communication with that company recently, to ascertain its position vis-a-vis the disclosure of its name and the production of the commitment letters made as between itself and Canada Square?

Mr. Scott: I was in touch with them by telephone this morning, about half an hour ago.

Mr. Shibley: Yes. Would you please tell the committee what is the position of that company?

Mr. Scott: They have no objection to being named as the financing party, and they have no objection to the ~~same~~ commitment letters being produced.

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Mr. Shibley: Would you also now then tell this committee the name of the company, ~~and~~

Mr. Wm. Newman: Mr. Chairman, before you ask the name of the company, I'd like to ask a question. Have you a commitment from them that they will live up to their commitments in the commital letters? Did you talk to them about this this morning?

Mr. Scott: I didn't discuss that with them, no. They did tell me that the commitment letter is still in effect.

~~Mr. Henderson: Mr. Chairman, I am a bit~~

Mr. Henderson: Mr. Chairman, I am a bit concerned as well here. This law firm, and I fully respect the firm, are ---

Mr. Renwick: Mr. Chairman, if I may, on a point of order. Mr. Henderson didn't have the privilege of being here yesterday to consider ~~the~~ to have the background information, on the basis of which Mr. Scott appears here this morning. And I think it would be helpful to him before he hurls himself into the fray to have the benefit of ---

Mr. Chairman: Well, just very briefly.

Mr. Henderson: The only thing that I'm going to ask is this firm ready to put their name at stake and their business if this finance company do back away.

Mr. Renwick: Mr. Chairman, on a point of order. ~~Now~~ I'm suggesting, Mr. Chairman, that if Mr. Henderson will take sufficient time to relax and listen, we can perhaps solve this problem. I would simply ask, with great respect to my colleague from Lambton, that to come here uninformed and hurl himself into this situation, which is extremely delicate, is not helpful in my ~~own~~ opinion. Now, that may not have been a point of order, but I've made my comment.

Mr. Henderson: Well, it could be quite possible, Mr. Chairman, that I differ greatly with my colleague in this respect. I was not here for the few minutes at the close of the meeting last night. I was not here after 5:15, to be exact. But I am still concerned of divulging the name of this company when we don't know the finances are tied down.

Mr. Chairman: Well, this is what this witness is presently trying to establish, and I'm not so sure, Mr. Newman, whether you've got the rest of your questions answered or not.

Mr. Wm. Newman: Well, yes. All I am concerned about, Mr. Chairman, I am very much concerned, ~~about~~ it may be fine for the firm to say, release my name. But does it ~~release~~ release them from their commitment also? That's what concerns me.

Mr. Finlayson: Well, I'd like to ask the witness a few questions if I may, Mr. Chairman?

Mr. Chairman: Well, no. We're not permitting that. We have not ~~permitted~~ ^{permitted} counsel to permit that Mr. ---

Mr. Finlayson: Well, I have got quite a stake in this, with great respect.

Mr. Chairman: Well, all right. But we are not permitted counsel representing the witnesses to ask questions.

Mr. Finlayson: Well, then may I ask you, sir, to put some questions to the witness then?

Mr. Chairman: Well, all right. If you want to consider those questions, ~~if you~~ you can let me have them in a minute. Mr. Renwick?

Mr. Renwick: I would like to try carefully to phrase the question which I think is at the root of Mr. Newman's concern. I'd like to ask Mr. Scott and ~~Scott~~ Scott if the ~~case~~ case *case I had*

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M.S.

doesn't permit me to express it properly, I'd like the assistance of Mr. Shibley on it. Mr. Scott, I take it

Tape H 1919 follows

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M.F.

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(Mr. Renwick)

that the furnishing to this committee of the commitment letter and the disclosure of its terms and the name of the institution for which your firm acts, will not be a consideration either for or against the ultimate decision as to whether or not the bond purchase agreement will be signed?

Mr. Scott: That is correct.

Mr. R. G. Hodgson: Mr. Chairman -----

Mr. Chairman: Mr. Hodgson?

Mr. R. G. Hodgson: I am fairly concerned because the divulging of the name of the company, as I understand it, we undertook to keep that confidential, the committee did, by committee decision.

Mr. Chairman: No, no, I am not so sure that was - we said that we would consider before we released it we would -----

Mr. R. G. Hodgson: Well all right, but I think that if we examine the reasoning behind it, then we can take a position as a committee in declaring the name, but I would like to explore all the circumstances surrounding without really giving the name at this time, ~~because~~ because I consider it is a committee decision to disclose the name after hearing all pertinent facts, and I just put that word of caution here at this time because I would like to examine all of that before we disclose the name. If we could do that as a committee with the firm then I think we would then make ^{the} decision. If we have decided to disclose the name I am not aware of it as a committee member.

Mr. Chairman: Well, I think the idea was that when we were meeting in camera, that name came out, as you will recall, without our request, but the idea that the in-camera meeting material would not be disclosed without consideration here, but one of the reasons that we undertook at that time to not disclose it without further consideration was on the representation that it would be prejudicial to Mr. Moog. Now we are in the process

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(Mr. Chairman)

of trying to establish whether we think it will be prejudicial or not. I think that is the point.

Mr. Henderson: Mr. Chairman, can you explain to me, or can our counsel explain, why it is important to this committee that this name become public? All of the information of the loan is available.

Mr. Shib ley: I would be glad to explain it to you, Mr. Henderson. There are a number of documents which reference names of people within the lending institution that I would like to deal with and it is going to be a terrible task for me to deal with these documents with any given witness if I have to go through each and attempt an editing job.

I think it is clear from what this witness has said that the disclosure of the name and the production of the commitment letters will not prejudice the rights of Canada Square re~~s~~pecting the arrangements between the lending institution and Canada Square. Is that not so, Mr. Scott?

Mr. Scott: That is correct.

Mr. Finlayson: Let me ask a couple of questions.

Mr. Chairman: Well just a minute now, Mr. Finlayson, please. Now I will be prepared to give you and I would ask you to write them out so that I can put them to the witness.

Mr. Finlayson: I would like to do it myself. /s/ J. H. H.

Mr. Chairman: Well, you are not setting the procedure for this committee to follow nor are you going to upset the tradition of select committees over the years by establishing new procedure here now, and if you will write your questions out I am prepared, as Chairman, to consider putting them to the witness. In the meantime Mr. Shibley is proceeding.

Mr. Bullbrook?

Mr. Bullbrook: I wanted to, if I might, respond perhaps tritely to you. Why the name should be disclosed is

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(Mr. Bullbrook)

because the public has a right to know the name, and the public only has the right not to know the name if, in our opinion, some individual corporation or otherwise would be adversely affected or otherwise ~~be~~ by the disclosure. And the problem is that we began this exercise by Mr. Finlayson telling us that Canada Square would be prejudiced by the disclosure of that name. ~~and~~ I think it is essential that we recognize that fundamentally the public has a right to know the name, not just ~~us~~, and not just Canada Square, and not just Hydro, the public have a right to know that name, and our function right now - and I also have some reticence about it - and so I want to ask Mr. Shibley a question, but I think we have got to begin with that premise that the public have the right to know the name.

Now I am not going to accept myself Mr. Finlayson's argument that was put forward yesterday, Mr. Henderson, that perhaps other people dealing with X company might find themselves at a particular disadvantage and therefore put X company at a disadvantage as far as interest rates or terms are concerned, because I think the Chairman laid that to rest yesterday when he pointed out that each separate application stands on its own facts, and these types of institutions, of course, deal with this very thrust every day. The banks do, the finance companies, ~~and~~ other lending institutions have a constant battle with ~~the~~ ^{these} ~~banks~~ in connection with the terms of the financing.

Now we have superimposed on that the evidence of X company that they don't care about the disclosure. So I want to ask you, Mr. Shibley, is there anything in the material that you have that discloses to you ^{Canada Square's} material, or other material that you have ^{that} discloses to you that the question of secrecy is important from the point of view of the commitment? Do you follow me, sir? ~~I have also inferred from what Mr. Moog has said that it almost~~

Tape 1920 follows

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B.A.

H-1920-1

(Mr. Bullbrook)

I have also inferred from what Mr. Moog has said that it almost was tacit in the arrangements that secrecy, that the non-disclosure of the terms, and so on. Now, do you have anything in your documentation that whereby X company by the ^{re} being disclosure, notwithstanding the possibility of ^{an} estoppel since we have representations from their agent that it can be disclosed, do you have anything whereby the commitment itself might be restricted or broken?

Mr. Shibley: Mr. Bullbrook, all I can say to you is that I don't recognize any such potential privilege ^{at least} ~~or~~ prejudice. Now, if Mr. Finlayson can advert to some I would be interested myself to know. I thought the whole ^h trust of the representations that have been made by Mr. Finlayson repeatedly, and which I might say have put us to quite an exercise over the course of this ^h hearing, to maintain confidentiality of many documents, has been that if the name of this institution, or if the terms of the commitment letters were disclosed, made public, that the institution in question might in some way employ that disclosure as a premise for walking away from the commitment. Now, this witness has unequivocally cancelled that out. Have you not, Mr. Scott?

Mr. Scott: That ~~is~~ is correct.

Mr. Shibley: Yes. And having done ~~that~~ so, the whole premise upon which we have been put through this exercise, and I might tell you it will waste considerable additional time, and I am directing my thoughts to Mr. Newman's ^{comment} ~~remarks~~ of last evening, because I had the ~~old~~ feeling that every time there is a delay or extension of this hearing that the responsibility for it has been directed towards me and a complete ignoring, there has been a complete neglect to recognize the delays that have been caused by Mr. Finlayson and other people taking positions, I want to make it clear that one reason I finally said, well there must be somebody in that firm who has responsibility ^{for} the file in

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(Mr. Shibley)

the absence of the other solicitor, and we identified him and reached him this morning, and I would have thought it was now a very simple situation. I don't ~~am~~ know what the whole exercise continues to be.

Mr. Renwick: Mr. Chairman, may I make one further comment?

Mr. Chairman: All right.

Mr. Renwick: First of all, I agree and support entirely what Mr. Bullbrook has said, that the premise that we start on is that the public has the right to know, in this kind of enquiry, subject only to an adverse prejudicial effect on a particular private individual. The comment I want to make, of course, is that regardless of the legal techniques which are reflected in the contractual document, we are in substance talking about funds being made available to the Ontario Hydro, and the commitment of Ontario Hydro to repay the funds through the payment of the rent under the elaborate scheme which is put forward. Ontario Hydro is a public institution. I am satisfied with the remarks made by Mr. Scott ^{and} ~~his~~ his answer to my question reiterated in his reply to Mr. Shibley that it is in the interests of the public and it is in the interests of Ontario Hydro as a ~~public~~ public corporation with public responsibilities that this committee have the information which is in the commitment letter, having been set aside this morning by Mr. Scott, about the other factors.

Mr. R. G. Hodgson: Mr. Chairman, I would think the name should now be made ~~be~~ public.

Mr. Chairman: Before we do this, I want to put Mr. Finlayson's question, of course, before we do that.

Mr. Allen: Mr. Chairman, I am wondering if, now that you have the information with respect to the willingness of this company concerned, to make the name public, if you couldn't decide to go ahead this morning with Mr. Moog's testimony as you did before.

Mr. Shibley : We are going to.

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~~(Mr. Allan)~~

~~with Mr. Moog's testimony as you did before~~

~~Mr. Shibley: I am going to~~

Mr. Allan: Well, we are going to. We are going to get into a ~~long~~ discussion that's going to last an hour or two and --

Mr. Shibley: Mr. Allan, I might tell you that why I recognized that the problem had peaked was that there are other documents --

Mr. Allan: Well, but in Mr. Moog's testimony?

Mr. Shibley: With names --

Mr. Allan: So far as Mr. Moog's testimony?

Mr. Shibley: Yes.

Mr. Allan: I understood yesterday that it was other persons' testimony.

Mr. Shibley: No, I am sorry. There are documents respecting which I would like to deal with in evidence -- in the evidence of Mr. Moog--wherein the names of the people in X Company are referenced and frankly I found myself handcuffed in my efforts last night and this morning to try and deal with those documents without getting disclosure. I called Mr. Scott and was very ~~much~~ grateful to him for the expeditious way in which he took his instructions and agreed to attend this morning, so there we are.

Mr. W. Newman: Mr. Chairman --

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Just one thing, I agree with Mr.

Bullbrook the company has a right to know exactly what we are doing here, maybe the name of this company, but maybe company X doesn't mind having their name disclosed and that may be fine, but I would like to both hear comments through you, Mr. ~~Speaker~~ Chairman, by way of you, from Mr. Moog's lawyer and from Hydro people as to how they think it ~~may~~ might affect them due to the fact that the evidence that was given yesterday, or ~~that~~ was inferred yesterday, that the building might cost, at today's costs and interest rates, another \$15 million, and I would hate to see the public have to ~~pick~~ ^{pick}

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(Mr. W. Newman)

up the tab for another \$15 million if ~~was~~ the releasing of this name ~~should~~ ^{could} create a problem.

Mr. Shibley: They don't have to pick up the tab.

Canada Square is good for the obligation.

Mr. W. Newman: Well, you were trying maybe yesterday in your evidence to indicate maybe otherwise.

Mr. Henderson: Mr. Chairman, the counsel's last remarks just brought out what I was scared of. You are not worried over destroying Canada Square apparently. You just made that remark.

Mr. Renwick: Most improper.

Mr. Henderson: It is not most improper. Counsel just made the remark that I have been scared of.

Mr. Bullbrook: I just ~~disassociate~~ disassociate myself ^{entirely}

from that!

Mr. Henderson: That's quite all right.

Mr. Chairman: Gentlemen, let me put these questions now, if I might, *to Mr. Scott.*

Mr. Shibley: Well, Mr. Chairman, I am sorry. May I, on what you call a point of personal privilege, say that it is not now and ~~is~~ never has been my intention to destroy or ~~not~~ adversely affect Mr. Moog or his company in any sense whatsoever. The purpose of my in-depth examination into the affairs of Canada Square, and you will note they are restricted solely to their involvement in the Ontario Hydro project, has been an effort to produce to this committee all relevant facts that have not always been easily forthcoming and sometimes I have had to press to get the facts.

I intend before the end of the examination to demonstrate the difficulties that I have been confronted with in that regard, but the point of the matter is that I take issue with any suggestion by anyone at any time that I have any different purpose than simply to get at the truth. Now, I hope I have put that issue to rest in the minds of everyone.

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(Mr. Finlayson)

I want to make clear I'm not going to start off with any suggestions about personalities, but when Mr. Shibley says the obligation of Canada Square is firm to Ontario Hydro to get this money, he is perfectly correct. But it also has to be apparent to anybody who reads the agreement that the only leverage that Canada Square has is in the area of eight to eight and a quarter per cent and that if this commitment at eight per cent falls through, then Canada Square will be in a position where it either will not be able to honour its commitment to Ontario Hydro or it will have to go out and borrow \$45 million at current rates, which we all know are well in excess of eight and a quarter per cent.

You've heard the figures 10, 11, even 12 per cent, are the figures you are talking about today, so that if Canada Square has to pay anything in excess of eight and a quarter per cent it comes right out of its own pocket. And when you are talking about \$450,000 per year over 30 years for every percentage point that we are talking about, I can tell you that if Canada Square has to pay 10 or 11 per cent for its permanent financing for this particular project, it will surely go bankrupt and there is no question about that.

And so then you've got to consider, having destroyed Canada Square, just what Ontario Hydro's position is going to be, because their commitment obviously - the commitment ~~to~~ of Canada Square - has got to be one that they are in a position to fulfill.

Now, what I am concerned about and very much concerned about, is that this gentlemen, with great deference to him, has acknowledged that he is not the senior ~~man~~ man at Borden and Elliot who is looking after this matter. It is not Borden and Elliot's money which is at risk. It is Canada Square's. And unless we can have some assurance from the solicitors for Canada Square that their principals, Company X, are prepared to

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(Mr. Finlayson)

to go through and sign a bond purchase agreement in the normal form, then I say with great respect, you are prejudicing our position very thoroughly.

Now, I am not prepared to go into any detail as to what the meeting on Friday is all about, but you don't need to take too much imagination to know that there has got to be a bit of fence mending going on at this stage. We have already — I've heard indirectly and I think what Mr. Scott will confirm, that in the ordinary course, the bond purchase agreement would have been executed a long time ago and we wouldn't have this kind of a problem.

But now we are in a position where we — the principals, of Canada Square have got to go down to New York and we've got to see what we can do to satisfy questions that have been asked and things of that nature by the people who are putting forward the money.

And this is why I am concerned about it. And I also refer you — my friend, Mr. Shibley, says that it is necessary to pursue some of the names of the principals in Company X with Mr. Moog and I would remind you of the testimony of Mr. Bradshaw that Mr. Moog had had no dealings personally ~~~

Mr. Shibley: No, I'm sorry, you misconceived what I said. There are some documents with a name or names of that company noted on them. I'm not intending to ask him about ^{the} people, but just because a document has these names, it makes it very awkward for me to deal with the other content in the documents.

Mr. Finlayson: Well, as I say, the ~~~~

Mr. Shibley: Oh, I'm sorry, Mr. Bell reminds me that in one instance the name is important for purposes of chronology.

Mr. Finlayson: Well, as I say, Mr. Bradshaw has testified that the actual negotiations ~~that~~ were carried on by himself and Mr. Coles insofar as Canada Square is concerned ^{and} that _{them}

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M.R.

(Mr. Finlayson)


Mr. Moog was not involved in those negotiations.

Mr. Shibley: Mr. Chairman, if I may assist my friend in that respect: Ames were receiving certain information from Mr. Moog and Company and noting it and acting as intermediary with X Company and so that although there was no direct dealing it is nevertheless an area on which I feel I should question Mr. Moog.

Mr. Bullbrook: May I ask Mr. Finlayson a question?

Mr. Chairman: Yes. Mr. Bullbrook.

Mr. Bullbrook: Mr. Finlayson, I am confused at one thing and I'd like you to help me. Here we have the situation where our counsel, on his own initiative, ~~presented~~ ~~of less than 24 hours communicated with responsible people~~ ~~to deal with Company X as to the question of disclosure...~~



H-1923 to follow

H-1923-1

(Mr. Bullbrook)

~~here we have a situation where our counsel, on his own initiative,~~
in a period of less than 24 hours communicated with responsible people to deal with company access to the question of disclosure. And I want to assure you that I am still vitally concerned, as we all are, that we don't be the instrument in any way of fracturing your financial arrangements. But one would have thought, that since this has been going on for four weeks now that you as counsel for Canada Square might have been in touch with company X to, if I may say, ascertain whether disclosure of terms, disclosure of name, or otherwise, could be a cause for them of withdrawing their commitment. My problem is, when you talk about the bond agreement is, I would think that those things are so sophisticated that they would necessarily take a length of time and that terms might not be settled quite, quite apart from this hearing. But I am wondering why; or did you ~~communicate~~ communicate, or has Canada Square communicated? Can you give us any representation whereby ~~the~~ company X has said that disclosure of terms, or disclosure of names, or continued publicity would lead them to withdraw from the commitment?

Mr. Finlayson: Mr. Chairman, I can tell you this, that I have naturally asked the question of my clients a number of times "What is the situation with company X? I mean just how bad is it?" And their reaction is always the same - "for Christ's sake stay away from those people right now; this is the worst time to have any talks with company X." And as long as this hearing is going on we are just sitting here with our fingers crossed hoping that nothing goes wrong, and that is why we are disturbed now that this invitation to deal with company X has been brought forward at this particular time.

Now what I would suggest, that instead of merely having Mr. Scott's assurance that the name of company X is immaterial so far as company X is concerned, that you delay this thing at least until you call somebody from Ames who has got some sensitivity about the problems of borrowers, and ask him if there is going to be any

H-1923-2

(Mr. Finlayson)

danger of causing problems if the details of these negotiations are disclosed, and there is a lot of public debate about them. You have heard what Mr. Moog has said, and he is very definite on the subject. But Mr. Shibley has already indicated that he proposes to call somebody from Ames, presumably Mr. Johnson whose name has been put in evidence as one of the principals of that company. Let's hear from him and put those questions to him as to just how delicate this thing is - then you are getting an independent expression of opinion.

Mr. Chairman: Mr. Scott, you are with the firm of Borden and Elliot, is that right?

Mr. Scott: Yes.

Mr. Chairman: And I understand that they are solicitors for company X. Is that correct?

Mr. Scott: That is right.

Mr. Chairman: All right. Now A.E. Ames I gather are the agents in the matter.

Mr. Scott: I believe so.

Mr. Chairman: They are agents for Canada Square. Is that the position?

Mr. Scott: That is my understanding of it.


Mr. Chairman: Now can you tell me; Mr. Finlayson is concerned over the interest rate; can you tell me whether the interest rate is likely to be - that is the interest rate that I understand is presently agreed to - can be any way changed in regard to this possible disclosure? You say there are some terms that you are not certain of, and what may not be settled. I am thinking of the two questions I asked you, that Mr. Finlayson asked me to find out about. Can you assure us that the interest rate is not one of those?

Mr. Scott: Mr. Chairman, I received 20 minutes notice of this hearing, and I was unable to take the time to get the copies of the letters out, but the normal position on these types of commitment letters is if the bond purchase agreement is signed in accordance with the terms of the commitment letter, no change in the interest rate will take place.

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~~XXXX~~ CA

H-1923-3

Mr. Allan; Mr. Chairman, I feel rather frustrated in
connection with this whole thing. I have just finished reading
the terms of reference ~~_____~~



H-1924-1 follows

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B.A.

H-1924-1

(Mr. Allan)

~~in terms of the~~
~~the just finished reading the~~
again, and for the life of me, I can't see, and with great respect to our counsel, I am not aware of why he wants to get some of this information. As I see the situation, there has been an agreement for the financing which looks to me like a good agreement, and I don't see anything in the terms of reference that indicates that we should be exploring that particular facet of the whole deal. I think that until I have been convinced ~~that~~ that there has been some reason for it, that I would, if there is a vote, I would have to vote that the name be not disclosed.

Mr. Shibley: Shall I answer that, Mr. Chairman.

Mr. Chairman: Yes, certainly - or attempt to answer it.

Mr. Shibley: I think it has been fundamental to the evidence of every witness to this ~~at~~ point of time, both from Hydro and Canada Square, that financing was the key element in terms of assessing the transaction in terms of whether the transaction provided a good deal or a bad deal for Hydro. It is Mr. Moog's evidence that ~~at~~ from day one, he recognized this to be a fact. Now, it is also pread throughout the evidence that Hydro worked on ~~a~~ certain premises as to what the financing was going to be, and I think that needs to be compared with what were, in fact, the arrangements as to financing. I would have thought it was fundamental, Mr. Allan, with the greatest respect, which I have for you.....

Mr. Allan: ~~My~~ My feeling is the thing that is fundamental is for us to examine the agreement which we have never touched.

Mr. Shibley: Well, we have in a way.

Mr. Allan: We have backed in the back door, but we haven't taken the agreement and examined the agreement, and one of the first, and I think you prepared the formula that we should have followed,

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H-1924-2

(Mr. Allan)

"are the terms of the ~~g~~ agreement as they affect Ontario Hydro financially and economically sound."

Mr. Shibley: Yes.

Mr. Allan: Well, we haven't discussed that at all.

Mr. Shibley: Oh, I think we have.

Mr. Allan: WE haven't agreed - no we haven't not ~~1~~ from that point of view, and we haven't, at least I don't think we have agreed as to how we are going to ~~evaluate~~ it. There is a difference of opinion among members of the committee.

Mr. Shibley: You see, again, we spent, I think the first two days of this week dealing in part with that question. The evidence as to what Hanscomb Roy have come up with, was all directed as to ~~whether~~ whether or not this was a good transaction for Hydro. There was earlier evidence, also, with respect to the building itself as given by Mr. Moog. I can't agree with you, sir, that haven't

Mr. Allan: I know you don't agree with me, I am aware of that, but.....

Mr. Shibley: And when I don't agree with you I do it with some temerity.

Mr. Allan:.... we haven't agreed as to what the ~~and~~ term "appraised value" means. And until we do that, how do we know how we are ~~are~~ going to consider the agreement.

Mr. Shibley: You are making my own point then, sir, ^{because} ~~because~~ I would have thought that it was crucial for us to get an understanding of those terms as used in the agreement, and I tried very diligently to lead ~~g~~ evidence as to what the understanding of the parties was in that regard. Again, I think we were very much on point, the point you are making.

Mr. Allan: I can't agree with you, I am sorry.

Mr. Shibley: What you are saying is that because we didn't get answers that we haven't attempted to deal with it. I can't help it if we don't get explicit or straight answers to the....

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Mr. Allan: But we have never taken the agreement clause by clause and looked into it.

Mr. Shibley: Mr. Allan, first of all, Mr. McCallum is a Solicitor intended to take us through the agreement. He is counsel of Hydro and in his turn will do that. With respect to financial matters, we will have the evidence of Mr. Anson-Cartwright. I think, with all respect, we are diverging from what is the immediate question before this committee, which is this. That in dealing with matters financial, it has been the position of Canada Square, that the disclosure of

(H-1925 follows)

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M.R.

(Mr. Shibley)

~~... dealing with matters financial it has been the intention~~
~~of Canada Square that the disclosure of the name of the~~
lending institution, the disclosure of the terms of the
commitment letters, would be prejudicial to Canada Square and
in some way affect the commitment. This witness has cancelled
out the whole of the grounds upon which the application was
made by counsel for Canada Square to keep that information
confidential.

And I think we ought to get back and resolve that
point.

Mr. Allan: Well, you and I think differently
that's ...

Mr. Chairman: When you say he has cancelled it out,
I'm not so sure that he has completely to my mind, in that
he admits that he is not here with full knowledge of the
negotiations in this situation and that is the point that
bothers me. Sure, he says that Company X has no objection for
disclosure but I, still in the back of my mind, is there the
possibility that this will prejudice the disclosure will in
some way open the door to prejudice and that is what is still
possibly bothering me.

And I gather Mr. Scott, that you are not in a
position to say that with any authority or any complete
assurance.

Mr. Scott: Well, Mr. Chairman, I was asked
the question, as I understood it, whether the disclosure of
the name in itself would make any difference to the decision
of our client as to whether it would or would not go ahead
with this bond purchase - the signing of a bond purchase
agreement - and my answer to that was clearly "no".

It will not make any difference. If the bond purchase
is not signed, it will not be for the reason that the name
was disclosed.

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Mr. Chairman: Or that the commitment^{it} will produce ...

Mr. Allan: I think the concern of the committee with very great respect, Mr. Chairman, is by the committee deciding to disclose the name at this time before the agreement is signed and if for any reason it wasn't signed and then if there is a lawsuit, it will - it might or might not be proven or a doubt created as to whether the decision that the committee had anything to do with the agreement not being signed. That is my concern.

Mr. Chairman: Well, of course, Mr. Allan - and I'd ask you to reply to this: To adopt that argument in part binds our hands really from looking at the full term of the contract.

Let me just read our term of reference because you--
"That a select committee of this House be appointed to examine and review the matter of and the circumstances surrounding the agreement for the construction of the new head office building for the Hydro-Electric Power Commission of Ontario and report its findings and recommendations to this Assembly, as soon as it may conveniently do so".

Now, the agreement for the construction, now, are you saying in effect that that is only this black book and not the agreement that Canada Square may have for the financing of it?

Mr. Allan: I can't see that that affects our agreement with Canada Square so long as they are properly financed.

Mr. Chairman: As long as they come up with the funds, it doesn't matter to us ...

Mr. Allan: Well, I think, as Mr. Bullbrook has said, and everyone agrees, that the public and we know the name of the company, we are satisfied that it is a responsible company, the committee are satisfied and for the life of me, I would like

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(Mr. Allan)

to see us ...

Mr. Henderson: Mr. Chairman, I would just like to add and agree with Mr. Allan but I would like to add that there has been no evidence that this money could have been gotten cheaper any place else. There is no financial benefits to be derived by divulging it. That's the part that I am interested in. And, of course, I also worry over the destruction of anybody whether it be counsel or who it is. I feel we have an obligation to the public. If this in anyway destroyed Canada Square, I would feel this committee would be responsible.

Mr. Chairman: Well, I don't think this committee is going to destroy Canada Square unless it has done something to deserve it.

Mr. Henderson: Well, if this agreement is that far that it could be retracted, if it could be retracted, I am sure that you realize the destruction it would do to Canada Square if the interest rate went up.

Mr. Chairman: All I am saying is that we are out to establish facts and truth. ~~Now we are responsible~~



H-1926 to follow

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(Mr. Chairman)

~~out to establish facts and~~ Now, we can't be responsible for the ~~re~~ results of establishing those ~~facts~~ ^{FACTS AND} truths although I am concerned that we should keep within the terms of our reference as far as what facts and terms we try to establish.

Mr. Henderson: Then I would suggest to you the company's name should not be divulged.

Mr. Chairman: Mr. Walker, sir.

Mr. Walker: Mr. Chairman, I agree ~~am~~ wholeheartedly with the comments of Mr. Allan, as usual. They are well taken. One I would like to add to it that I came here this morning prepared to hear the name, thinking that in all likelihood what committee counsel had indicated last night would probably come out today. However, having heard the arguments, I think there are really some competing interests here. One is of course the interest that Mr. Bullbrook makes reference to relative to revealing the name to the public, that the public ^{HAS} ~~has~~ a right to know and I strongly feel that way.

On the other hand, public interest also requires a ~~x~~ private interest to. It is most important for us to protect the private individuals and if, in revealing this name and certain terms of the agreement, or terms of the agreement as between X Company and Canada Square, if that results in some devastating thing ^(OCCUR TO) to Canada Square, I think by the same token not only are they somewhat destroyed or perhaps even destroyed but so too could be the entire Hydro project, the building of this office building, and in that respect the public interest I think has to be paramount.

Listening to the arguments, frankly I am not sure. All I know is that some people are saying one thing. Other people are saying the other and it is very difficult to come down on either side except on the side of caution in a case like that, Mr. Chairman, and it seems to me that the safest route for us to follow at this time is to at least, for the present, defer any ~~definit~~ decision relative to revealing the name, or at least defer the revelation of the name until we have far more facts ahead of us.

Now, Mr. Shibley indicates that it would be awkward for

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(Mr. Walker)

him to proceed on the documents. Well, so be it. I am afraid in my mind, it will have to ~~have~~ be awkward for him to proceed in this respect. I just don't think we should reveal it at this time.

It may be appropriate at another time. It may be appropriate after we have discussed it with the people from Ames but for the time being, let us keep the name confidential and those particular crucial terms confidential.

Mr. Chairman: Just to comment on that, Mr. Walker, you say with Ames. I would regard it is more important to get that information from Borden and Elliot than it would be from Ames because Ames are the agents for Canada Square while Borden and Elliot, as I understand it, are the principles involved --

Mr. Walker: I can accept that position. I am afraid Mr. Scott hasn't satisfied my concerns this morning.

Mr. Chairman: That is my concern too. Mr. Scott, do you have something else to ~~say~~ say and I am coming back to Mr. Deans here.

Mr. Scott: Mr. Chairman, I am sorry to appear restive but I received only 20 minutes notice of this. I had a meeting arranged at 11 o'clock which I have not changed and I would like to keep.

Mr. Chairman: All right. I think that's fair. ~~Is~~ there ~~any~~ anything further we want? Can you add anything at this point to help us, Mr. Scott? You have heard our dilemma.

Mr. Scott: No, I informed myself just on these two simple questions and I haven't had a chance to explore other areas.

Mr. Chairman: All right. Well, who is the senior partner or the senior -- your senior handling this matter. Let me put it this way, who is in charge of this matter for X Company?

Mr. Scott: Richard Meech.

Mr. Chairman: Mr. Meech. And do you know when he will be back in town, expected to be back?

Mr. Scott: I believe he will be back next week.

Mr. Chairman: Next week. All right. Well, thanks.

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(Mr. Chairman)

Mr. Scott. Are we agreed that Mr. Scott should leave or are there some other questions to ask?

Mr. Renwick: Mr. Chairman, I would like to express my appreciation for the forthright way in which the principle of the firm of Borden and Elliot has responded to the request in an endeavour to clarify a very difficult question for us. It has been direct, simple, straightforward and most helpful.

Mr. Chairman: Thank you, Mr. Renwick.

Mr. Allan: I think we are all agreed.

Mr. Chairman: Thank you, Mr. Scott, for your attempt to assist us and you may be hearing, or your firm, may be hearing further.


Mr. Scott: Thank you, sir.

Mr. Chairman: Thank you. Mr. Deans.

Mr. Deans: Thank you, Mr. Chairman, I can't help wondering what the devastating effects that Mr. Walker talking about are likely to be.

Mr. Walker: So am I wondering.

Mr. Deans: If the - well, that's right, and I think that in every time we come to a crisis we canonger up devastating effects. Throughout the hearing there have been occasions when we have been faced with the possibility of ~~in some cases from the moment the hearing begun we have been faced with the possibility that we would~~



(H-1927 to follow)

H-1927-1

(Mr. Deans)

~~when we have been faced with the possibility~~ - in fact from the moment the hearing began we have been faced with the possibility that we would uncover evidence which would be devastating and damaging. Nevertheless, we have ploughed ahead in an ^{ATTEMPT} ~~attempt~~ to get to the truth. And I wonder when the lending institution says that it doesn't care - it doesn't actually say it doesn't care it says it has not objection to the name being made public, and goes as far as to say through its solicitor that it has no objection to the letters of commital being made public, commitment being made public, that we are, in our own minds attempting to find reasons which they don't have for not abiding by what appears to be their decision that it doesn't matter. If the names were made public, and if the terms were made public, and if the company as it has indicated that it doesn't care, then anything that it did by way of worming out, or weaseling out, or whatever term you want to use of the contract with Canada Square would have to be on some other basis than that basis. And if it were on some other basis it would have to be based on something which is already fact and ~~not~~ not something which we would likely uncover since it has already given its approval for what we want.

It is entirely possible, I suppose, that this company may well at some point find itself in disagreement with Canada Square and want to withdraw. I don't know that it is probable, and I don't even know that it can be done legally, but I suppose in imagination that it may well happen that way. But that is something we have faced all the way through these hearings, and this is something that we have recognized might well occur as a result of the inquiry itself. And we have been given the authority of the Legislature to proceed with the inquiry. And this is an important part of the contract; an important part of Canada Square's ability to fulfill its obligation is the ability to raise the financing. And the company with which it is dealing, the financing institution, surely has already said that in its opinion it makes no difference whether we know or whether the public knows that it is involved. And why are

~~anyway~~

H-1927-2

(Mr. Deans)

we, therefore, trying to sneak a look under rocks to find things that could possibly go wrong? Why are we not prepared to accept that they don't care and that they are not going to use that against Canada Square? I don't quite understand what the dilemma is.

~~Now~~ I asked my colleague. I was called out for a phone call, but I asked my colleague what the questions were that Mr. Finlayson put to the Borden & Elliot representative, and as I understand the questions as ^{RELAIED} ~~related~~ to me they were not questions which we didn't have an answer to previously. I think that we understood that the bond purchase agreement had not ~~be~~ yet ~~been~~ signed. And I think that we understood. I think that we now understand that there is going to be a meeting. But the fact that there is going to be a ~~matter~~ meeting is purely a matter between Canada Square and the company involved.

I can't help thinking that we are looking for reasons not to find the truth, rather than accepting the statements of the people involved. It is awfully easy; we seem to be always looking for ways to paint things blacker than they are. And I think that in the interests of Canada Square, and in the interests of Ontario Hydro, and in the interests of the Legislature that we have to make sure that everything which can be made public is made public. We don't have the right ~~to~~ to withhold information unless we honestly believe that that information will be detrimental, will have a detrimental effect to one of the parties involved.

And by the statement of the party that is going to be doing the lending the making ~~of~~ public of the information will have no detrimental effect. What right then have ^{we} ~~us~~ to say it might?

Mr. W. Newman: The other half of my question wasn't answered. I would like to hear comment from the solicitor for Ontario Hydro.

Mr. Chairman: Then all right. Mr. Genest is waiting to speak.

Mr. Genest: This is a dispute that I would have preferred to stay out of Mr. Chairman. Hydro, of course has no objection, and ~~indeed I agree with Mr. Deans...~~

H-1928-1 follows

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M.F.

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(Mr. Genest)

~~and~~, indeed, I agree with Mr. Dean's comments that from the point of view of Ontario Hydro we want all the facts of this transaction out on the table.

But there is another interest. The thing that has impressed me the most about this financing is not the statements that have been made, including the statement by Mr. Scott, it is the fact that a bond purchase agreement, which is a relatively simple document, in the case where the terms of the loan were settled as long ago as last November, that that document has not yet been signed, and that raises in Hydro's mind some serious questions. What is the delay?

It also, in my view, casts-at least makes us look, at statements by people. If you ask an institution if your name is disclosed are you going to back out, well what is that institution going to answer? and how much stock do you put in its answer? I would have been much more impressed by a statement that the institution is going to sign a bond purchase agreement next Friday. Actions speak louder than words, and that is what concerns Hydro is the great delay in having this relatively simple document, the main terms of which were settled almost a year ago, nine months ago, and it is still not signed.

The suggestion I want to make to the committee is that apparently there is a meeting on Friday between officers of Canada Square and company X. Why don't we defer this till Monday and perhaps all this will be blown away by then?

Mr. Chairman: Mr. Genest, I may be coming to making that suggestion, but you talk about delay. Surely it is not the terms of the contract that is bothering company X but the very fact of this inquiry, and what this inquiry might or might not reveal. Isn't that the real concern? And do you think that bond agreement is going to be signed, or the final papers on it, ~~and~~

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(Mr. Chairman)

are going to be signed until this inquiry either finishes its evidence or until the report is filed.

Mr. Genest: We are all speculating. Company X hasn't said so, hasn't said why it is delaying. We are all speculating. ~~Mr.~~ Hydro's only concern, Mr. Chairman, is if there is the slightest risk of jeopardizing this transaction then we would prefer that the risk not be run. That is as strong as I can put our position.

Mr. Chairman: What bothers me, to take that stand ties the hands of ^{THIS} ~~the~~ committee in saying all right you shouldn't even be functioning because -----

Mr. Genest: No, I am not saying that.

Mr. Chairman: Well we are here to inquire, and if you are saying - and this is what I think the ~~main~~ delay is cause of, if there is ^{ANY} ~~any~~ change that this inquiry is going to bring out some misfeasance on anybody's part, then company X may want to take another look at ^{this} ~~this~~ document and say "here, we don't want to be attached to this at all".

So that what we are in effect saying that what is causing the delay is the fact of the inquiry and what it might bring out rather than the disclosure of names or anything of that nature.

Mr. Genest: Well I don't ~~think~~ think this is a matter in which we will ever know for certain. ^{There} ~~There~~ is no certitude in the dealing with financial institutions. I can only reiterate that from Hydro's point of view that if there is the slightest risk we would rather than ~~the~~ risk not be run. Now I add to that that I want to join with Mr. Allan in saying that I cannot see, I can't read Mr. Shibley's mind, there may be paths that he wants to follow that have not occurred to me, but I can't see why it is necessary for this committee to know or to have divulged the details of negotiations with company X or documents

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M.F.

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(Mr. Genest)

forming part of these negotiations when the committee knows the terms of the financing. It knows what he is getting his money and the terms on which Mr. Moog is getting them, and I just cannot see where it serves the purpose of this committee to go into side issues and up branch trails. I don't see where it will get you.

Mr. Chairman: Well I agree with that argument that Mr. Allan has been putting forward and what you are putting forward now but the trouble is that this is a public inquiry and all terms of the contract supposedly are subject to our investigation.

Now if so many objections had not been made in the past which subsequently proved non-sustainable or non-supportable,

~~I think we would have reached a different conclusion.~~

Tape 1929 follows

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M.S.

(Mr. Chairman)

~~...in the past which subsequently proved non-sustainable or non-supportable~~, I think we would have moved along a lot faster on these things, and the questions wouldn't have been raised in the minds of the public whom we're serving. But if we now say under the purpose of protecting Canada Square's interests, certain documents will not be investigated or not be disclosed, and these documents can be quite immaterial, and in ~~what~~ my mind ~~they are~~ but it may look as though we're trying to cover things up, or not bringing out the full truth.

Mr. Wm. Hodgson: Mr. Chairman, that's not Mr. Genest's suggestion. He suggested that if it is possible, let us wait until after Friday.

Mr. Chairman: Well, all right. That is the conclusion that I think we've got to proceed on now. I am not ---

Mr. Renwick: Mr. Chairman, ~~for~~ I think it's fair to say that I've tried throughout the origin of this problem to find acceptable solutions. I'm not prepared to procrastinate any longer on the matter. I think it relates specifically to the completion of the examination of Mr. Moog and his testimony before this committee. I am not prepared to countenance any further delay in the expedition of the work of the committee. I have been reluctant at all times to withhold any information, on the basis of an in-camera situation, unless I was satisfied entirely about it.

It is perfectly clear that the way in which this committee can expedite the completion of all details outstanding between Canada Square and Prudential is to get ahead with the examination of that aspect which affects those decisions which must be made. I am prepared to accept

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(Mr. Renwick)

totally the reputation of the law firm of Borden and Elliot, on whose behalf Mr. Scott, as a member of that firm, was speaking, and not on his own behalf or on behalf of his colleague Mr. Meech. That they are stating, unequivocally, that the position of Canada Square and, therefore of necessity, the position of Hydro, will not be prejudiced in any conceivable way, one way or the other, by the disclosure of the terms of the financial commitment, or by the disclosure of the name of the lending institution.

It would appear from the alacrity with which Mr. Scott was able to obtain that information that the lending institution is not happy to be placed in the position where ^{there} ~~there~~ is speculation and ~~guessing~~ as to who they are or what they're doing.

I would also say to the committee very strongly that I, in the face of the apocalypse projected by Mr. Walker and referred to by others, it destroys the capacity of anybody to make a judgment. And the judgment, Mr. Chairman, is very simple and the committee can't kid around. We've come up to the trough. If we put it off until Monday it means that portions of Mr. Moog's testimony will have to be delayed until Monday because there are matters that I am concerned about that relate to the smatterings of information that I have about it. The committee is faced, and it has got to make the decision this morning so far as I am concerned, with this proposition: the public interest requires the disclosure of all the information. We have no right, as a

(Mr. Renwick)

committee, to be sitting in possession of private information, with respect to this hearing, unless we can be satisfied as a matter of judgment, judgment, that a private interest will be adversely affected. We have heard the viewpoints expressed by Canada Square, by Mr. Finlayson on behalf of Canada Square, and by Mr. Genest on behalf of Hydro. I am quite ~~was~~ prepared to understand that they would take the position that if there is the least possibility of the disclosure of these terms of this commitment letter and of the name of the lending institution will affect the matter, that it's in their interest that it not be disclosed. ~~But that is not the question that we have to ask.~~

But that is not the question that we have to ask. We have to ask whether, in the situation as it exists, the public interest, including the disclosure of the information, the expeditious completion of this hearing, and the tabling of the report of this committee in the Assembly, can be delayed in any way now by a ~~reason~~

Tape H 1930 follows

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M.R.

(Mr. Renwick)

~~Some have argued in previous hearings~~ suggestion that the interests of Canada Square will be adversely affected.

Now, it is easy for the committee members to say that if there is the slightest possibility, or if we, as a committee, cannot guarantee that X Company will lend the money at the interest rate and that the bond purchase agreement will be signed, to duck our responsibility.

Now, Mr. Chairman, our responsibility is to deal now with the issue. Our responsibility is to make a decision in the minds of each member of the committee, whether the public interest requires at this point the disclosure; whether or not there may be a marginal possibility that it may adversely affect Canada Square.

Now in my judgement, in my framing of the question, I have no difficulty in the light of the evidence that was given this morning and having heard the arguments on other occasions and again this morning, pro and con, I have no hesitation that the public interest requires that matter to be decided now and Mr. Chairman, I feel sufficiently strongly about the point and because I have other work to do than to devote my lifetime to this committee, that I want the committee to get on efficiently and expeditiously with this work and I move, Mr. Chairman, subject to someone seconding my motion, that we now proceed in the way in which counsel for the committee has indicated he wishes to proceed and that at the appropriate time that the commitment letter be made an exhibit to the work of this committee.

Mr. Bullbrook: For reasons that I expressed before I will second the motion.

Mr. Chairman: Yes, all right. We don't need a seconder ...

Mr. Bullbrook: All right.

Mr. Chairman: ...but there's no harm.

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Mr. Allan: Mr. Chairman, I would like to move an amendment to the motion. Namely, that the decision as to whether the name of X Company be made - I don't have Mr. Renwick's motion clearly in my mind, but the effect of which would be that the decision, that we delay a decision until Monday next at our meeting.

Mr. Genest: Monday is Labour Day.

Mr. Allan: Tuesday would be better.

Mr. Chairman: Mr. Allan, would that be pending any additional information or did you just ...

Mr. Allan: The matter can be considered again.

Mr. Chairman: All right.

Mr. Allan: And in speaking to that motion I want to be very definite in stating my feelings. I'm not doing this on behalf of Canada Square. My interest in this is Ontario Hydro. I don't want to see Ontario Hydro faced with a lawsuit if this agreement should be withdrawn and I don't want to be one person who would be responsible for bringing that about.

Mr. Deans: Could I ask Mr. Allan a question?

I'm not absolutely clear, how will that situation have changed on Tuesday?

Mr. Finlayson: The meeting on Friday.

Mr. Deans: Yes, but the meeting on Friday is not for the purpose of signing, as I understand it. I mean surely you would know today if you were going Friday to sign a bond purchase agreement?

Mr. Finlayson: We are not going to sign it, but I'm hopeful that we will get the terms settled. You see, if we end up in a position ...

Mr. Deans: But the terms, my understanding is that the terms are already settled.

Mr. Finlayson: No, they are not, not the bond purchase agreement, that's ~~the~~ ^{the} problem.

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Mr. Deans: No, the terms of the loan.

Mr. Finlayson: Yes, if they - if Company X says;

"Now, look, this is the bond purchase agreement, all its terms are settled, ~~we will execute~~ this as soon as this particular inquiry is over and there is no adverse comment;" then we are happy.

We are happy then, because we know that the terms of the bond purchase agreement, ~~subject to the end of this hearing~~, have been settled between us; but what we don't know now is what they are going to try to do with that bond purchase agreement.

Mr. Bullbrook: Well, Mr. Finlayson though, what you are suggesting now is entirely on all fours with what the chairman analyzed the situation to be. ~~There is~~

~~There is~~

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W.A.

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(Mr. Bullbrook)

~~what you are going to sign now is a bill of exchange with~~
~~that the Chair has signed already and so on.~~ It is not

really the question of disclosure of the name or disclosure of the terms, it is the very fact that this investigation is in being that is causing the settlement in —

Mr. Finlayson: No, it isn't. That isn't it, with great respect.

Mr. Bullbrook: I thought that is what you just said, Mr. Finlayson;

Mr. Finlayson: No, obviously it isn't ~~any~~ going to be signed until this hearing is over. ~~We~~ ^{Has} never have been under any delusions ~~that~~ ^{about} that, but what we would like to know is, "are you going to sign it when the hearing is over, and on what terms," and that is what we don't know.

Mr. Deans: I want to ask you, Mr. Finlayson, if I may. ^{best} Isn't it in the ^{best} interests of Canada Square that, the committee have already dealt with those matters before you go in order that company X can in fact view what has already happened in the committee and make its judgement on the basis of the committee's deliberations rather than have them say to you verbally that at some point in the future we will sign it after we see what happens and not know what the committee's line of reasoning is ~~is~~ going to be. Surely it would make more sense for you to go there and say the committee has dealt with it now, ~~because~~ ^{therefore} this is what has come out, and ^{therefore} we are now in a position to clear the decks, as opposed to waiting until Tuesday, when the company is more likely to say, "Well, we still don't know what the committee is going to do".

Mr. Finlayson: You are not going to make a decision by Friday, I don't think.

Mr. Deans: No, but we ~~are~~ are certainly going to have ^{done} ~~done~~ today and tomorrow with the matter, and I assume, and I think I am right in assuming, Mr. Shibley, am I correct in assuming that you

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B.A.

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(Mr. DEans)

will have dealt substantially with the matter of the bond-
purchase agreement and the terms, ~~whether~~ if the bond-purchase
agreement is to be dealt with at all, by Thursday evening when we
recess, as far as Mr. Moog is concerned? Will you put into
evidence all of the matters which you think are important?

Mr. Shibley: Yes. As time ~~passes~~ runs on - I am keeping
track this morning of how much time we are wasting, because I thought
this was going to take five minutes to clear up the point and it
is now an hour and a quarter since we got under way. I must say,
in fairness, Mr. Chairman, I have listened very carefully to what
Mr. Finlayson has said and I am interested to hear him say that
they are hoping to settle the terms of the bond-purchase agreement
on Friday, and that they are expecting to have to wait upon the
ultimate disposition of this committee for its execution, but what
they are more anxious to know is whether there is anything vis-a-vis
the terms of the agreement yet to be settled and that that might take
place on Friday. Without in any way withdrawing from the position
already stated by me, and without, sort of, prejudicing the position
of anyone as at Tuesday, if the meeting of Friday would, in fact,
create even a possibility of relieving the worries of Canada Square,
then I think that some regard has to be had for that. ON the
other hand, I want it perfectly clear that if we were to put this
~~LINE~~ of examination over, until Tuesday, and have Canada Square
come back and say, "Well, nothing happened on Friday that changed the
situation" then I can tell you my recommendations to the committee
will be the same as they were this morning. I do feel, though, that
the injection of the circumstance of a meeting that is pending as
soon as the day after tomorrow, ^{WEIGHS} is a circumstance that ~~is~~ very
heavily on my thinking as to whether we need go on now with it, or
later. And I am not only thinking of the examination of Mr. Moog,
I am thinking of the examination about the examination of the people
from Ames, and if -- I thought I had cleared up the problem this

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B.A.

(Mr. Shibley)

morning by calling Mr. Scott, I really did. If ~~something~~ something further might happen between now and Tuesday to further clear it up, that's great. I think, with some little effort on our part - maybe more than a little effort - we may be able to use the time to advantage, in any ~~event~~ event. I have other things to ask Mr. Moog about. ~~The Amittas members have~~

(Tape H-1932 follows)

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(Mr. Shibley)

~~use the time to advantage. In any event, I have other things to ask~~
~~Mr. Moog about.~~ The committee members have other things to ask Mr.
Moog about. There are some other witnesses that may be arranged for.
I really feel^{and} I am weighing very carefully, as I say, the
circumstance of this pending meeting as a factor that was not known
to me, I might say, this morning, and as long as Mr. Finlayson
understands that no matters ~~what~~ happens at that meeting on
Friday that it will nevertheless ~~be~~ be my position with this
committee that we should get on with disclosure.

In other words, it is a sort of one-way street for
If
Canada Square. ~~If~~ the meeting resolves the problem, then the question
is academic. If it doesn't resolve their problem, I then intend
to ask this committee to go forward with the vote that's now
pending.

The other thing that it would do, frankly, and it is
something I would like to do, is I would like myself to have the
further opportunity to study the documentation in order to ascertain
whether certain lines of questioning that I had intended to embark
upon are prejudicial in a degree that outweighs their ^{probative} ~~productive~~
value, to this committee, and the interruption of the evidence at
this ~~the~~ juncture, vis-à-vis the financial matters, would afford me
that opportunity.

I hadn't thought it would be, but I want to look very
carefully at it once again in the light of the representations that
have been made. So that in effect, Mr. ~~Chairman~~ Chairman, I know there are
strong feelings on both sides, but I think here again, rather than
see a division of a vote at this time, ^{and} I don't ~~like~~ see divisions
within the committee --
A

Mr. Chairman: Politicians are used to them.

Mr. Shibley: -- and I have heard Mr. Walker say that
sometimes the best course is caution. I am prepared to be cautious
until Tuesday. If that helps Canada Square, then ^{again} we have leaned
over backwards to help them out in similar circumstances -- ^{what} ~~it~~ has
bothered me in the past is that when representations have been made

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(Mr. Shibley)

as to the need for confidentiality, that need has never really been proven out in the end result. I thought I had proven again, through Mr. Scott, that the need for confidentiality is not necessary. I remain of that view, but I can't, in my own mind, disregard what Mr. Finlayson has said about a pending meeting on Friday.

Mr. R. G. Hodgson: Mr. Chairman, may I ask Mr. Finlayson, has he got any evidence or any definite word from the principal company that they are waiting until this hearing is over?

Mr. Finlayson: Well, as you say --

Mr. R. G. Hodgson: Or is it only speculation?

Mr. Finlayson: No, no. You have seen the clause in the bond purchase agreement that I referred to before and it is quite apparent that we ~~cannot~~ couldn't sign the agreement with that clause in it right now. And as Mr. Renwick pointed out, there's nothing unusual about that clause, ~~but~~ so that we can't say that that was something ~~xxxxxx~~ unusual put in the agreement, but at the present time we have got to make a statement that there is no governmental enquiry commission, etc., etc., at the present investigating the thing and that clause is a ~~very~~ perfectly normal clause and we just can't sign it right now because there is ^{an} ~~the~~ enquiry going on.

Mr. R. G. Hodgson: Is that the clause that you are going to be exploring on Friday?

Mr. Finlayson: Oh, no, no.

Mr. Renwick: Mr. Chairman, I want to say again, the committee ~~has~~ just placed themselves in a trap. The solicitor, as I understand it, who has the carriage of matter from Borden and Elliot, Mr. Meech, will be back ^{at} in Toronto, I understand the end of the week. Is that correct, Mr. Shibley?

Mr. Chairman: I forget what date he said. I thought he said next week.

Mr. Genest: Next week.

Mr. Renwick: All right, so that any suggestion that the bond purchase agreement is going to be settled on Friday at a

H-1932-3

Aug. 29/73
11.20 to 11.25 am
DT

(Mr. Renwick)

meeting, ^{if} the meeting takes place, in the absence of the senior
solicitor, having the carriage of the matter at Borden and Elliot
is wishful *thinking*.

(H-1933 to follow)

August 29/73
11:25 - 11:30 am
CA

H-1933-1

(Mr. Renwick)

~~Is the meeting takes place in the presence of the senior solicitor having the carriage the matter at Jordan. I don't is wishful thinking~~

Secondly, as Mr. Scott indicated this morning, his information was that the meeting on Friday is not all that firm and there may very well not be a meeting.

Mr. Finlayson: Well, it was just arranged last night. It is firm. There is no question ^{about} ~~on~~ that.

Mr. Renwick: Even if the meeting is firm, I am simply saying that I am not prepared to countenance any delay in the proceedings of the committee with respect to this matter any further, because we have had no clear statement even, even after all this discussion, no clear statement as to what the objectives of Canada Square are at that meeting on Friday which, if accomplished, would allay their concern.

Now if they are in fact continuing to say that the settlement of the bond purchase agreements and its terms are the ~~matter with the committee~~ conditions of them agreeing to us going ahead, then I am simply saying from what experience I have had in this particular field, and knowing Mr. Meog personally, and the fact that he is not going to be available, and the responsibility which he would have for the carriage of the matter; it is not going to be settled on Friday.

And as far as I am concerned, I don't, regardless of Mr. Moog's views with respect to this particular issue, I can't conceive that it is in the interests of the committee or in Mr. Moog's interest to protract his examination. The matters that I have in my mind with respect to Mr. Moog after the lengthy examination of the early point, and yesterday, and the day before, means I have only got about two or three matters that are of concern to me about Mr. Moog and ~~the~~ the role which he has played as the principal executive officer of Canada Square. I want to get that over. I want to get on to the other matters; and I am simply asking, with all of the respect which I have for Mr. Allan and for the other members of the committee, that the time has come, the decision has to be made. It is in the public

H-1933-2

(Mr. Renwick)

interest. And there is not going to be a settlement of the terms of the bond purchase agreement this Friday. Come hell or high water. It will not be settled.

Mr. R.G. Hodgson: Mr. Chairman...

Mr. Chairman: Well let's ask Mr. Finlayson that because I understood that that ~~was~~ is what he was making representations to us.

Mr. R.G. Hodgson: If there is any delay because of this hearing; it will be delayed until after the hearing is over. In the meantime we cannot get the information that we require. And I can't see how, for the love of me, that Mr. Finlayson has proven to me that he has any general knowledge that the bond purchase agreement is going to be delayed beyond a reasonable time.

If the hearing here is the reason for it we are going to some day wind up and they are some day after that going to sign the bond purchase agreement. And I really can't see how this committee's hearings, in order to get all the facts that we are charged to get, and give everybody the ^{full} ~~best~~ opportunity of stating his opinion on the known facts that he knows, can be ~~an~~ undertaken by that witness here before this committee and our examination, can any way possibly have any other effect. And I just simply say that we have to have this name. We have to have this information. We have to proceed with this hearing. And I am for the motion of Mr. Renwick.

Mr. Deans: Mr. Chairman, Mr. Hodgson raises a point. They are either going to sign it or not going to sign it. And whether we know the information today, or whether we have the information on Tuesday, that information surely could not ever be the basis for them having made up their mind. The information we are asking for cannot be the basis for them not signing the bond purchase agreement since they have given authority for the information to be given. And I don't understand why we continue to argue about it. ~~Respectfully~~

The bond purchase agreement as I understand it is not firm until it is signed, and there is already a letter of commitment. That letter says that there will be a bond purchase agreement signed. Any further commitment from the company would simply be reiterating what they have already stated in their original letter of commitment;

1934-1-8-80

August 29, 1973
11.30 - 11.35 a.m.
M.R.

(Mr. Deans)

~~_____~~ that they are going to sign a bond purchase agreement some day and it would seem to me that on Tuesday we will go through the exact same exercise we have gone through today. We will rehash all of the arguments because, in fact, it will not have been signed and therefore there will be no final commitment on the part of the company.

I think that Mr. Renwick is absolutely right. I think that ...

~~96~~ ^{CALLER}
Mr. Finlayson: You ~~call~~ the witnesses.

Mr. Deans: ... and I think further that my thoughts previously are valid, that the company would probably rather they got the thing done and over with than have it drag on indefinitely.

Mr. Chairman: Mr. ~~Renwick~~ Finlayson, can you be definite with the committee as to what you hope to get done on Friday, what you hope to have firmed up that will change the position by Tuesday?

Mr. Finlayson: We have been invited to go - at least, I say "we" - the officers of Canada Square have been invited to go down to New York to deal with the officers of Company X. It is not a meeting between solicitors to talk about the actual phraseology and things of that nature. They apparently want to iron out some problems which have arisen in the minds of the lending institution and I don't want to go into what those are but they are substantial matters.

And it is the hope of Canada Square that they can put the minds of the lending institution to rest on those points. Now so far as Mr. Meech is concerned he of course takes his instructions from the officers of Company X and he will, if we've got these matters of principle ironed out between the principals, it's just simply a question of the of Mr. Meech carrying out the instructions of his client and reducing it to writing and it would be my hope, as I say, that

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M.R.

(Mr. Finlayson)

we've got these matters of principle to resolve on Friday so that we can come back and say there is no problem or there is a problem, as the case may be.

Mr. Deans: Well, Mr. Finlayson, can't they set their minds at ease more readily if the information that we have sought is already a matter of record rather than have them wondering what it is we are going to be asking about? Surely when the company sees what we have already asked, and knows what it is that we are trying to accomplish, they will be more satisfied with the putting of their mind at ease by Mr. Moog and Mr. Coles than they would be if they were still wondering what it was that we were yet to ask.

Mr. Finlayson: Well, it's got nothing to do with it because actually what they are asking us is things that have already been raised. I mean, this is ...

Mr. Deans: So what we ...

Mr. Finlayson: The questions they are asking us are, with respect, to matters that have already risen out of this inquiry.

Mr. Deans: And you are prepared to say then that they wouldn't care what we ask from here on in, that wouldn't affect it?

Mr. Finlayson: Yes.

Mr. Deans: Well, but you say their concern is what has already been asked.

Mr. Finlayson: ^{LISTEN} ~~Listen~~ we are in a very delicate situation.

Mr. Deans: So are we.

Mr. Finlayson: Well, I don't think you are, with great respect. I mean, you've got a difficult problem on your hand, I concede that and you've got a lot of issues that you've got to resolve but my client is the person who has got \$45 million at stake.

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M.R.

(Mr. Finlayson)

And it doesn't seem to me to be unreasonable that the matter be deferred until Tuesday, even Mr. Shibley appears to accept that he can stand his questioning down on this point until then and that's my ~~position~~ position.

Mr. Deans: Well, I can't help ~~me~~ thinking that Mr. Shibley is, as always, being his accommodating self. But in this instance I think he is wrong.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Well, Mr. Chairman, I would like to ask and get clarification on two or three points. First of all, Mr. Finlayson, I gather the meeting on Friday was initiated by Company X. Is that so?

Mr. Finlayson: Well, I don't like to get into this too much but there has been some problems that have come up and we just want - it's come to the point where Mr. Moog and Mr. Coles feel that they have got to get together with these people. Now, just who said come to New York or we will go to New York doesn't make any difference. The problems are there. The only way they are going to be resolved is-if they are to be resolved- is with a meeting and ...

Mr. Bullbrook: Mr. Binlayson, you just led me to believe that Company X, and I don't want to get back in to this because I am absolutely certain I'm going to blurt out the name of Company X, but you ...

Mr. ~~Binlayson~~ Finlayson: You already have if that is any comfort to you.

Mr. Bullbrook: Let me say that you do yourself a great disservice in making that comment. You know that. You know what I've told you about that before. Let's not get into that. Now you just led me to believe that Company X called this meeting. Now with my colleague you are equivocating. What are you trying to do

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11.35-11.40 a.m.
M.F.

8 - 1555 - 1

(Mr. Bullbrook)

~~Now you just led me to believe that company X called this~~
~~meeting.~~ Now with my colleague you are equivocating. What
are you trying to do to us here? We want facts, not conjecture
on your part. Which is it?

Mr. Finlayson: I have told you that the meeting itself
was arranged last night and that - but the invitation came
from company X.

Mr. Gaunt: So it was initiated by company X?

Mr. Finlayson: That's right.

Mr. Gaunt: All right, make that clear.

Mr. Finlayson: They wanted to see us. Now the
actual details of the meeting were worked out last night.
Those are my instructions.

Mr. Gaunt: Well then, Mr. Chairman -----

Mr. Chairman: Do I gather, Mr. Finlayson, that by
Tuesday you will not have any objections to this name being
revealed and all the rest of it?

Mr. Finlayson: I don't know. I don't know what is
going to happen.

Mr. Gaunt: Mr. Chairman, may I pursue -----

Mr. Chairman: ^{you weren't through,} I am sorry, Mr. Gaunt, my apologies.

Mr. Gaunt: I had just two or three matters here that
I wanted to clear up in my own mind.

The first one has been dealt with. The second one --
is it fair to say, Mr. Finlayson, I got the impression that
the terms of the bond purchase agreement will not be discussed
at Friday's meeting?

Mr. Finlayson: Oh yes.

Mr. Gaunt: They will be discussed?

Mr. Finlayson: Yes, that's the point, they have raised
in
some problems, and there are doubts ~~in~~ their minds.

Mr. Gaunt: No, but you said they had raised some

H 1935 - 2

(Mr. Gaunt)

problems and those problems were problems surrounding this hearing.

Mr. Finlayson: They arise out of what has come out at this hearing, yes.

Mr. Gaunt: Well then I take it the terms of the bond purchase agreement is one item for the agenda; the matter of the evidence that has come up before this hearing is another matter on the agenda, and what I am really trying to determine from you, sir, is are we going to be in a better position to deal with the financial arrangements on Tuesday than we are today? In other words, will we come back here on Tuesday and be right back to ~~any~~ square one?

Mr. Finlayson: You may very well be in that position, sir, I have to be frank with you. I can give you no undertaking that you will be in any better position on Tuesday than you are now.

Mr. Gaunt: Then under those circumstances, Mr. Chairman, I would have to say that as far as I am concerned I am prepared to go on with the evidence today and have the disclosure made.

Mr. W. Hodgson: Mr. Finlayson, you'd think there would be a very good chance that we would be in a better position to deal with this for all concerned on Tuesday after your meeting?

Mr. Finlayson: Well, all I can say is from my client's point of view that is what they want, and they feel that they would be in a better position. Whether they are going to resolve these problems on Friday or not, I don't want to put myself in a position ~~where~~.

Mr. W. Hodgson: No, I can understand that, but ----

Mr. Finlayson: I may find myself back there on Tuesday playing the same violin, I still don't know. I don't want to ----

Mr. W. Hodgson: The tune will be pretty well worn out if you are playing the same tune on that same violin on Tuesday, but I am quite prepared - I want to state my position - to go

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11.35-11.40 a.m.
M.F.

H - 1935 - 3

(Mr. W. Hodgson)

along and wait until Tuesday. I think it is in the best interest of everyone that we wait until Tuesday. There have been great speeches made about this concern of public interest that we see right now. My God we have been going since the first of May and the public has been waiting a long time and I am sure two more days is not going to hurt.

Mr. Chairman: Well, I would have thought the other way.

It was my hope that we would have been through with Mr. Mogg today. ^{I think} That was my hope and Mr. Shibley's hope too.

^{Mr. Shibley: It's still my hope.}
Mr. Deans: I would like to ~~say~~ ^{have} go to New York and say

"I have completed my -----"

Mr. Chairman: That would have been my thought. If ~~he~~ could have gone down there and -----

Mr. Deans: "part of the ^{evidence} and there it is."

Mr. Chairman: ~~That~~ the committee has done its worst, as it were -----

Mr. Deans: I think that would be more helpful ^{than} to have him go down there and say "I have got problems, I have got to go back Tuesday".

Mr. Chairman: However, I think Mr. Shibley himself has some reservations perhaps about it and if that is the case I am going to recommend to the committee that we adopt the position of delaying it until Tuesday. I do it with the most reluctance and I am buying Mr. Renwick's argument as far as the disclosure and all the rest of it. The only part of Mr. Renwick's argument I am not buying is the matter of time ~~of~~ of Canada Square, and goodness knows we have gone out of our way many times to try and accommodate them. They are the ones that I think have most to gain by getting this hearing over with and getting it over quickly, ~~but~~ but they are the ones that seem to be doing everything they can to protract the hearings and get on with the evidence. But once again, since they have requested that we wait till

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M.F.

H - 1935 - 4

(Mr. Chairman)

Tuesday I am prepared to wait till Tuesday. But apart from that, I like the position that Mr. Renwick put forward that it is not going to do them any great damage in itself and we should go ahead. Now that is the suggestion I am making to the committee.

Mr. Renwick: Mr. Chairman, I can count heads as well as anybody else and votes are of no particular assistance.

~~My position is~~ *-----*

Tape 1936 follows

Aug. 29/73
11:40 - 11:45 am.
M.S.

(Mr. Renwick)

~~...the count is as follows...~~
~~are of the same nature.~~ My position is as I
stated in ^{my} motion. If the vote were taken on the amendment
I would oppose the amendment. As I say, I can count 11
heads as well as anybody and figure out what the vote is
going to be on it, since my colleague, the member for
Victoria-Haliburton, has indicated the nature of his
decision on the matter.

Mr. Chairman: You can never tell until the
vote is taken and counted, Mr. Renwick.

Mr. Renwick: I never know with Mr. Allan
whether he's going to dig his heels in when I make this
suggestion, but I'm prepared to withdraw my motion if
he will withdraw his amendment.

Mr. Allan: I'm always happy to co-operate
with you, Mr. Renwick.

Mr. Renwick: Thank you, Mr. Chairman.

Mr. Chairman: I think Mr. Shibley has something.

Mr. Shibley: I must say the only further
observation I want to make is that I listen carefully to
what people say. Mr. Renwick described the request as a
trap. I am anxious to go on record as saying that I don't
view it ~~as~~ a trap. I am relying on the good faith of
counsel for Canada Square that it not be a trap. And that
when we resume on Tuesday that there will not have been some
development which could be characterized as the springing of
the trap which Mr. Renwick fears. I don't have that fear
myself, or I wouldn't have made the observations I did make.
But I want to make that statement for the record at this time.

Mr. Chairman: Well, it is a quarter of ~~ten~~ twelve.
Do we want a break and then we will proceed with Mr. Moog?

Committee recessed for short break.

Tape H 1937 follows

Aug. 29/73
11.55 to 12.00
DT

The committee resumed at 11.55 o'clock, a.m.

Mr. Chairman: Ladies and gentlemen, I call the

meeting back to order and Mr. Moog -- is it your intention,

Mr. ~~M~~ Shibley to deal with Mr. Moog next?Mr. Shibley: Yes.Mr. Chairman: But as Mr. Moog is coming forward, you have a statement to make, Mr. Bullbrook.Mr. Bullbrook: ~~Mr~~ Yes, I want to -- it is very unique because I want to confess an error, not that the confession is unique.Mr. Chairman: Is there any point in calling Mr. Moog at this point?Mr. Bullbrook: No, twice I had been of the opinion that, if you recall, that in assessing the appraised value of the building that the cost of arranging the permanent financing would be one of the criteria that the assessor would take into consideration. Mr. Genest resisted that on each occasion and yesterday, subsequent to the hearing, we discussed it and I agree with him now and I want to record that.Mr. Chairman: Thank you, sir.Mr. Genest: I am very grateful.Mr. Bullbrook: I want to also point out that on page 19 of Mr. Moog's statement, of course, he says that "in this calculation no provision has been made for financing or underwriting charges which on the evidence of Donald Smith would be \$1 million on a project of this size," and although you weren't relating there, Mr. Moog, to value, you were relating to cost. I was, in effect, led down the garden path by that comment.Mr. Moog: In that case, the same thing.Mr. Genest: Mr. Chairman, perhaps it might be ~~appropriate~~ appropriate also for me to give some information that --Mr. Chairman: Have you got a confession to make?Mr. Genest: No, I just undertook to make a search through some minutes yesterday about -- I think Mr. Shibley asked that we make a search through commission minutes through September, October and November of 1972 to see if there was any reference to any

(Mr. Genest)

question of a government guarantee or of a right to sue the Hydro-
Electric Power Commission without a fiat or consent of the Attorney
General and the search has been made and there is no such reference.

Mr. Shibley: I am sorry, Mr. Genest, --because I have
a very distinct recollection of seeing something in that material
and it may well not be within those months. I may be within the
file maintained by Mr. Easson as separate but could I please ask
you to continue that search because I have a very precise
recollection of more than one reference to the circumstance of
the inability of parties to sue Hydro without consent.

Mr. Genest: I think you read all the minutes, Mr. --

Mr. Shibley: I know I did. I read about 11 volumes.

Mr. Genest: I have the same recollection of that
question coming up in connection with a deal contract made by
Hydro and the United States.

Mr. Shibley: That may be. I didn't think it
important at the time I was scanning the minutes.

Mr. Genest: Well, we will take a look through Mr.
Easson's memoranda but there is nothing in the minutes.

Mr. Shibley: OK.

Mr. Henderson: Mr. Shibley, couldn't it be confirmed
down to a smaller area? Mr. Bradshaw's evidence brought it out
when it was definitely out. You have the dates that he--

Mr. Shibley: I will talk to counsel about it over
that
the luncheon recess. I think we can perhaps narrow the area down
Thank you. Mr. Moog, you will forgive me if the line of questioning
from this point forward jumps around a little bit because I am
intending to try to deal with topics that are really unrelated to

~~the following~~

(H-1938 to follow)

Aug. 29/73
12:00 - 12:05 pm.
M.S.

(Mr. Shibley)

~~that, the basis that was to be included in~~
the financing features of the contract, even beyond the limits that your own counsel might have wished, pending our resumption of evidence next Tuesday.

I would like, however, to have produced to you a letter of September 8, 1972, from your firm to Mr. Thornton of the Bell Canada company in Montreal. And, Mr. Chairman, may we have that made the next exhibit?

Mr. Chairman: 218.

Mr. Shibley: Now, you have, in the course of your testimony, Mr. Moog, said that your company is a company that undertakes projects on a one-project-at-a-time basis, so as to give your full time and attention to that particular undertaking.

Mr. Moog: One major project at a time, yes.

Mr. Shibley: And, in fact, you were approached, as I view the content of this letter, by the Bell Telephone Company sometime around September 8, to tender a proposal for a major building contemplated by that firm.

Mr. Moog: I think negotiations with the Bell had been going on for some time and it had just matured in their requesting a proposal around that time. That's correct, Mr. Shibley.

Mr. Shibley: I'm not sure if the line on the exhibit is my own, but in any event ---

Mr. Moog: No, it's not.

Mr. Shibley: It's not. In any event, this letter is a response by you on behalf of Canada Square to the effect that having been awarded a similar project by Ontario Hydro - and I'm now looking at paragraph two: "..... which unfortunately runs simultaneously time-wise with your schedule for completion of your premises. We

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M.S.

(Mr. Shibley)

believe that the major reason for our company being as successful as we have been in this field has been the concentrated and concerted effort we expend on one large-size project at a time. We have a team of highly specialized people, and at this moment would not know how to extend our staff sufficiently to take care of such a large project as yours running concurrently with the Ontario Hydro project. It is, therefore, with great regret that we have to decline your invitation."

I've put that in, Mr. Moog, as confirmatory of the posture you've taken vis-a-vis taking on one project at a time. Do you want to make any further comment on it?

Mr. Moog: No. I just wish to thank you.

Mr. Chairman: Sometimes you accept the wrong invitations, Mr. Moog.

Mr. Shibley: Now, you have mentioned the fact that there are other companies in the group of companies. Is Canada Square, so to speak, the construction arm of the group? Or do the other companies undertake construction projects as well?

Mr. Moog: Canada Square is the real estate development company and construction company, yes, that's right. And other companies would not compete on projects with Canada Square, that's right.

Mr. Shibley: So that the personnel who have the expertise are personnel that really are for the group of companies --

Mr. Moog: That's correct.

Mr. Shibley: ~~and~~ and the policy that you've expressed in terms of one project at a time, is a policy really vis-a-vis the whole group of companies? You wouldn't

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M.S.

(Mr. Shibley)

have Yonge-Exhibition doing one project ^{while} ~~and~~ ^{at} ~~the~~ ^{the} ~~same~~ ^{same} Square ~~was~~
~~simultaneously?~~

Mr. Moog: No, no. That's quite right.

Mr. Shibley: All right. Now then, during the period pending completion of the Hydro building, which I gather is expected to be the end of 1975. Am I correct as to that?

Mr. Moog: Yes.

Mr. Shibley: Are you currently planning any developments that would be undertaken within that period?

Mr. Moog: We would not use our forces and take them away from the Hydro project. All we would do is we would sort out possible other developments and do preliminary work on other developments. So, that when the Hydro project comes to a close we would very much like to have another project to continue. And to that extent we would be searching out the field.

Mr. Shibley: Yes. But that in terms of making a commitment, I'm talking about ---

Mr. Moog: Not prior to the Hydro project being well towards the finishing stages. So that it really wouldn't really interfere, that's what I'm really trying to say.

Mr. Shibley: You would be making preliminary plans, preliminary negotiations?

Mr. Moog: Yes, we would do that.

Mr. Shibley: But you would not undertake a project, would it be fair to say, until early 1975?

~~Mr. Moog: I would not start Canada Square, phase three, for instance.....~~

Mr. Chairman, when I interviewed Mr. Moog, he asked me to have each of Y and R properties, and Ellis-Don Limited, confirm that the representations respecting their ~~political~~ political contributions, were inclusive in the sense that they included contributions by subsidiary companies or ~~related~~ related companies, and I have done this. I have now received from each of those two firms that have given their evidence in this respect, a letter and I ~~would~~ now intend to exhibit those letters as the next exhibits before this committee. I might say that with respect to Horizon, not that anything is to be taken out of this, their evidence ~~is~~ as to political contributions, will be tendered by Mr. ~~Moog~~ when he is in the witness box in the same manner as the other firms have been given ~~is~~ the right and opportunity so to do. I don't have yet their list of contributions but that is the situation as to Horizon. So that, if I may, first tender the letter of Ellis-Don

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12.05-12.10p.m.
B.A.

(Mr. Shibley)

Limited, dated July 18, 1973. It is directed to Mr. Bell of my firm and my associate on this committee, and reads:

"Dear Mr. Bell: The List of political donations given to you and Mr. Shibley and used as an exhibit ^{at} the Hydro hearings, represents the total donations made by Ellis-Don Limited and its subsidiaries and associated companies, and myself, personally, for the years as shown. Yours very truly, Ellis-Don Limited, per D. J. Smith."

Mr. Chairman: We will make that one 219.

Mr. Shibley: ~~Exhibit 258~~ The next is a letter on the letterhead of Y and R Properties, dated July 26, 1973, again directed to Mr. Bell of my firm:

"Dear Mr. Bell: Re political contributions. This letter is being written to confirm our phone conversation of a few moments ago in which I advised that the political contributions made by Y and R Properties Limited, in the years 1969, 1971, 1972 and 1973, were as I advised in the Wednesday, July 27, 1973, afternoon session of the Hydro hearing. Further, as clarification, no moneys have been paid by Y and R Properties Limited or its subsidiaries to any of its officers or directors, to reimburse them for payments of political contributions. I have no knowledge, nor has any member of the senior management group with whom I have discussed this, any knowledge, of the individual personal contributions ~~made~~ which may have been made by anyone in our organization. I trust this letter meets with your requirements and clarifies this matter. Yours truly." And I ask that that be made the next exhibit, Mr. Chairman.

Mr. Chairman: 220.

Mr. Shibley: Incidentally, I thought it quite an appropriate thing to follow up in that way, because I had not, in making my original request of these firms, asked them to be all inclusive. Horizon is preparing such an all inclusive list.

(Tape H/ ~~xx1232~~ 1940 follows)

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12.10 - 12.15 p.m.
M.R.

(Mr. Shibley)

~~Mr. Shibley: Now, then, Mr. Moog, you have provided to me a statement of the political donations made on behalf of your group of companies, is that correct?~~ Now,
then, Mr. Moog, you have provided to me a statement of the political donations made on behalf of your group of companies, is that correct?

Mr. Moog: That is correct.

Mr. Shibley: And I'm not going to ask you to identify which company among the group made the contribution at the moment. These represent the totality of the contributions made by all companies within the group of companies to which Canada Square is a member?

Mr. Moog: That is correct.

Mr. Shibley: And would include the contributions made by any of the officers or directors?

Mr. Moog: I would like to make one amendment to that, I have asked all our senior staff, all our directors of all these companies, and I have been advised by one director, who really is not actively associated with us, that he has made a contribution of either \$100 or \$200, I forget this now. He would not tell me who he has made it to and for what purpose. But that was the extent, so that I can say that through salaries, bonuses, which ever way, put-throughs, if you wish, that is the totality of all contributions.

Mr. Shibley: Now, I'd like produced - or has it been produced to you? - the statement of donations to Mr. Moog and ask you Mr. Moog, to confirm that it is a complete statement, as you've just indicated?

Mr. Walker: Is this the time for me to fall on my back?

~~another 1973~~

Mr. Chairman: Well, you will have to improve upon your act of the other day, Mr. Walker.

Mr. Shibley: Is that the list that you ...

Mr. Moog: That is the list, Mr. Shibley.

Mr. Shibley: May I have that made the next exhibit?

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Mr. Chairman: Exhibit 221.

Mr. Shibley: Just reviewing that list with you,

Mr. Moog.

Mr. Deans: It's certainly a lot more generous than the others.

Mr. Shibley: In 1970 there is an item "Stanfield dinner - \$100; G. R. Bartlett ^{IRA} Trust - \$100," in 1971: Downsview Liberal Campaign re Vernon Singer - \$50; Hugh Sedgewick in Trust re Lennard Riley - \$200; a Provincial Progressive Conservative Party - \$10,000. Now I'd like to deal with that item as well as the next item: 1972 - ~~Provincial Progressive Conservative Party - \$25,000.~~ - Provincial Progressive Conservative Party - \$25,000." It appears that the total of the contributions to the Provincial Progressive Conservative Party is in the amount of \$35,000.

Mr. Moog: That is correct.

Mr. Shibley: Would you please tell the committee the circumstances surrounding the making of those contributions?

Mr. Moog: I made a commitment at election time for a total of \$35,000, which I spread over two years.

Mr. Shibley: You are talking about the election in the fall of 1971?

Mr. Moog: That is correct.

Mr. Shibley: And, in that respect, Mr. Moog, was a request made of you for even more funds than you agreed to contribute?

Mr. Moog: Yes.

Mr. Shibley: Yes. So that, this represents what you thought was a fair contribution?

Mr. Moog: That is correct, sir.

Mr. Shibley: And, as you've indicated - can you be more precise as to the timing of the making of the pledge?

Mr. Moog: It was just around election time. I think it was probably just prior to the election. I can't give you the exact time.

Mr. Chairman: What was the date of the election - 27th?

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Mr. Bullbrook: 27th of October.

Mr. W. Hodgson: It was called *earlier*.

Mr. Chairman: 21st of October, was it?

Mr. Shibley: October 21, 1971, was the date of election. It would be around that date.

Mr. Chairman: I don't know how we expect some of the witnesses to recall certain dates. I can't even remember the date of the election.

Mr. Shibley: Would it be prior to the election that the pledge was made?

Mr. Moog: I believe so. I'm not quite certain, but I think that is correct.

Mr. Shibley: And the first payment was made at the time of the pledge?

Mr. Moog: I believe that is correct.

Mr. Shibley: When was the second payment made in 1972?

Mr. Moog: I'm not quite certain but our accounting department can be a help.

Mr. Shibley: I beg your pardon?

Mr. Moog: I'm not quite ~~sure~~ certain.

Mr. Finlayson: I'll - do you want me to look up the date?

Mr. Shibley: Yes, please.

Then to go on *9 30*

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(Mr. Shibley)

~~Mr. Shibley~~ The last item is federal Progressive Conservative Party - \$20,000. Would you tell the committee the circumstances of your making that contribution?

Mr. Moog: That was also an election situation and I made a commitment for that.

Mr. Shibley: Yes. When was that?

Mr. Moog: Just prior to the election.

MR. Shibley: The federal election?

Mr. Moog: Yes, the federal election, right.

Mr. Shibley: And that was paid in full as one contribution?

Mr. Moog: I am not quite certain whether it was one or two.

Mr. Shibley: All right. Now then unless the committee members have any further questions in that regard.

Mr. Chairman: Mr. Renwick?

Mr. Renwick: Mr. Chairman, coming from the New Democratic Party I am curious.

Mr. Allan: You are not canvassing are you?

Mr. Deans: Not yet.

Mr. Renwick: I am curious as to the reasons which if they have any bearing on the matters under consideration here which would prompt the fund raisers for the Progressive Conservative Party to suggest to you that some sum in excess of \$35,000 was required for their campaign?

Mr. Moog: Well I think they knew we had money and they probably thought we ought to pay more.

Mr. Renwick: Was there any suggestion that there was some special reason why you should be asked for a larger sum of money?

Mr. Moog: No, sir.

Mr. Renwick: Not to your knowledge? No intimation of

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(Mr. Renwick)

any kind?

Mr. Moog: None whatsoever.

Mr. Renwick: Amazing. As I say, my remark is probably coloured by these, my party affiliations.

Mr. Shibley: Well I would be more specific, ^{Mr. Moog,} / was there any discussion whatsoever respecting the Ontario Hydro building at the time that you were asked to make this gesture?

Mr. Moog: Just to clear the record, absolutely not.

Mr. Shibley: Thank you.

Mr. Bullbrook: I would like to ask -----

Mr. Chairman: Mr. Bullbrook?

Mr. Bullbrook: Yes, I would like to ask you when you made the commitment of \$35,000, I take it the \$10,000 was paid concurrent with the 1971 Progressive Conservative campaign at that time?

Mr. Moog: I think that is correct.

Mr. Bullbrook: And then the \$25,000 - is that an on-going type of thing?

Mr. Moog: No, sir.

Mr. Chairman: Not now an yway.

Mr. Deans: It is not a retainer.

Mr. Bullbrook: Did Mr. Kelly tell you why you should have \$10,000 in 1971 and \$25,000 in -----

Mr. Renwick: He answered that - Mr. Moog answered that question?

Mr. Finlayson: I don't, with great respect, think we ought to - I mean I realize everybody is divided somewhat on political lines in this particular issue and I would just ask everybody to respect the type of question Mr. Shibley has asked.

Mr. Chairman: Any other -----?

Mr. Bullbrook: I am not finished yet. I appreciate what Mr. Finlayson has to say but I want to know - I think it is very

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(Mr. Bullbrook)

relevant here and it has to be asked because I take it that the normal contributions are concurrent with the expenditures that result in a campaign, and it's somewhat passing strange to me that a donor - I don't take any issue with donations, believe me, that is political donations, for campaign purposes - and help me Mr. Finlayson here, I don't want to be unduly objectionable, but I can understand a significant contribution concurrent with a campaign of \$10,000, that is relative to your means, I take it; but can you help me out as to why in 1972 there would be an elevation of your contribution by some 250 per cent when the campaign was over?

Mr. Finlayson: Well I thought he gave the answer.

Mr. Bullbrook: Oh he did?

Mr. Finlayson: Yes, he said he had agreed to give \$35,000.

Tape H - 1942 follows

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Bullbrook)
(Mr. ~~Renwick~~)

some 250 per cent, when the campaign was over.

~~Mr. Pinelagson: Well I thought he gave the answer this week.~~
~~Bullbrook~~

~~Mr. Renwick: Oh he did.~~

~~Mr. Pinelagson: He said he had agreed to give \$35,000.~~

Mr. Renwick: He committed \$35,000 at one time but spread it over two years.

Mr. Moog: That is what I said.

Mr. Bullbrook: Oh, so the contribution of \$25,000 in 1972, to the best of your knowledge, was for the purpose of the 1971 campaign.

Mr. Moog: That is what it was.

Mr. Bullbrook: Yes. All right.

Mr. Deans: May I ask one question ^{RELEVANT} THAT may or may not be

~~wrong~~

Does this include any donation given at the time of the Provincial Conservative leadership contest?

Mr. Henderson: It was in 1970.

Mr. Deans: In 1970.

Mr. Moog: No.

Mr. Deans: You didn't participate or contribute in the leadership contest?

Mr. Moog: No.

Mr. Deans: You did not?

Mr. Moog: No.

Mr. W. Newman: He has great faith in the Tory party that's all.

Mr. Shibley: Mr. Moog, I'd like to clean up another topic.

Mr. Deans: He certainly has.

Mr. ~~Shibley~~ Renwick: In that great democratic institution known as the Progressive Conservative Party of Ontario.

Mr. Shibley: I want to ask you a question that I have carefully worded, because again I think a ^{simple} ~~as simple~~ answer will clear the air.

Have you ever directly, or indirectly conferred any benefit of any kind relative to any transaction on the Premier or

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(Mr. Shibley)

anyone acting as his agent, or anyone whom he would seek to benefit?

Mr. Moog: No sir.

Mr. Shibley: Thank you.

M I'd like now to return to the matter of the building itself and these are not easily reproduced, but I think they are of use to provide the committee with some concept of what you have been talking about in terms of the plaza which is now conceived for the new building.

Mr. Moog: And Under construction.

Mr. Shibley: And under construction.

And before I circulate the original of this photograph; you don't happen to have others of it do you?

Mr. Moog: I could provide them for you, but I don't happen to have them with me.

Mr. Shibley: All right. My intention, Mr. Chairman, is to have this copy made an exhibit and circulated to the members.

Mr. Allan: Is that a different one?

Mr. Shibley: Oh yes, yes.

Mr. Chairman: We'll pass these on.

Mr. Finlayson: We didn't bring our copies along.

Mr. Moog: We ~~have~~ got copies. Unfortunately we didn't bring them with us.

Mr. Shibley: Well there will be an opportunity to add to the number. At the moment I am anxious to give you the opportunity, Mr. Moog to have the members see this and have you explain what it is that you are planning for the plaza because it is, as I understand it, a major revision in the original thinking for the corner, and involves a substantial expenditure. So that Mr. Chairman, the first thing perhaps.

Mr. Moog: Yes.

Mr. Chairman: This is landscaping for the plaza of the present building; at least the building being constructed.

Mr. Moog: Mr. Chairman, not just landscaping, it is the entire structure, which is multi-level, interwoven, very complicated,

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(Mr. Moog)

and I don't think there is another plaza like that in existence any place at this moment.

Mr. Shibley: So may we have the photograph marked as the next exhibit, Mr. Chairman? And perhaps it can then be shown to the members. And while they are glancing at it I would like you, Mr, Moog to give ~~you~~ them some idea of what is involved because, as I understand it from what you have said, certainly to me, this represents a major facet of the unique character of the building that you are planning for this site.

Mr. Moog: That is correct.

Mr. Chairman: Please note we are going clockwise on this
Mr. Bullbrook:

Mr. Bullbrook: Oh thank you very much, Mr. Chairman.

Mr. Deans: Don't take too long.

Mr. Moog: Do you want me to answer ^{now} ~~then~~?

Mr. Shibley: Yes.

Mr. Moog: When we had our first discussions and meetings on what kind of a building Hydro was to have we only had a concept. The major concept being a curved shaped building which would get away from long corridors and the sort of barrack-like look if you wish. We realized that it would be much more expensive to build a curved building, but we also realized it would provide a much better environment. We had a plaza planned which was more or less blending in with the University Avenue character of - well I guess the typical ~~institutional~~ ^{INSTITUTIONAL} look - very exclusive, and very formal. ↘

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(Mr. Moog)

Well, I guess the ~~typical~~ ~~typical~~ institution looks very exclusive and very formal. It was Mr. Candy's suggestion that he thought we should ask some other design firm to bring some more life to this project and ~~perhaps~~ ^{to} create something much more unique for that corner than had been attempted heretofore.

We, ourselves, suggested, the Arthur Erickson firm, who we have dealt ~~with~~ ^{with} and who we think is probably one of the best ~~designer~~ ^{designer} in this country. Mr. Candy said that he knew of a ~~designer~~ ^{designer} who was at least as good and as it has proven ~~that~~, I think he won a contract against Arthur Erickson since, and we are extremely happy that we have taken his advice and took that ~~designer~~ ^{designer} designer, namely the chief designer ^{of} the Gordon S. Adamson firm, who by the way agreed with us that he would never have wanted to ~~build~~ ^{have} this building, which he ~~originally~~ ^{originally} designed, today, and he will make that statement if that is desired. So he came up with sketches and with ideas. We had many, many meetings on this plaza effect alone, even after the building of course had started because we wanted to start digging a hole and getting some material ordered so that we would take advantage of prices as they were at the time. During that time period, the entire ~~podium~~ ^{podium} podium was redesigned according to the Adams ^{concept} concept.

You are looking at the Adams ^{concept} concept right there. We have had changes made while we were ~~under~~ ^{under} construction. We, in effect, had walls built, or partially built, which we tore out in order to conform with this at quite an expense, and we don't really know how much it cost us, but our aim was to really create an environment and an impact on that corner which we could all be duly proud about, ~~which~~ ^{pleased about,} ~~which~~ ^{pleased about,} which would ~~be~~ ^{be} suit the people who have to work there, the idea being that there are ~~some~~ ^{some 7,000} people in this building who, a lot of them are now in the Bloor street district and are used to very fine shopping and a good environment, and we are trying to create at least as good an environment there even though we are somewhat isolated, fully recognizing the fact that we are on our own there, we have to create our own environment

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(Mr. Moog)

without the help of the neighborhood but we hope to be the generator to perhaps get the neighborhood to fall in line. We are, as we often have, we are again pioneering and it is an expensive experiment. We think we will come out all right over the years, not in the beginning but hopefully - 5, 6, 7 or 10 years -- certainly by the time ~~the~~ Hydro takes over ~~that~~ over, I think they will have a very fine building. We like to compare it to the effect ~~the~~ Rockefeller Center plaza had in New York on 5th avenue which today is a better building than many of the newer buildings constructed, just recently, and has that for the environment.

This is what we aimed at. This is what we are building. That's what we are greed upon right from ^{day} one on; and we were ~~never~~ never check ^{on} what the cost would be on that; and it had nothing to do with \$34. We knew we would reach that mark, but that was important aspect, the plaza, the podium.

^{shape in} The other important aspect of course is the curved ~~shape in~~ itself. We have purchased the most expensive curtain wall there is on the market. We ~~had~~ could have saved many hundred thousand of ~~a~~ dollars going for a curtain wall almost as good, but we were certain that after maybe 15 or 20 years, there would have been signs of deterioration on that curtain wall, particularly in ^{re fl. time} ~~re fl. time~~ glass.

I might just comment that our ~~curtain wall~~ ^{is on the} inside. It is the Pilkington curtain wall. It is the best one there is.

Mr. Shibley: Mr. Moog, I am having Mr. Bell show you three additional photographs that Mr. Candy ~~had~~ ^{had}. They may be, in your view, useful. They are close-ups. They show the subway entrances which are somewhat unique and may require some description. Those are the subway entrances, regarding which, I think, there was a sizeable increase in cost for the --

Mr. Moog: Yes.

Mr. Shibley: -- glass portion of them from Pilkington, is that not so?

Mr. Moog: Right.

Mr. Shibley: And my understanding from Hanscomb Roy is

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(Mr. Shibley)

that it was because the glass extends down the walls as well as on the ceiling ~~that~~ that disparity in cost was created.

Mr. Moog: It is a domed --

Mr. Shibley: This is not just ~~a~~ ^a skylight, it was a completely-

Mr. Moog: It is a domed glass roof. We are presently thinking of something like the windshield glass used by the automotive industry. It is again something which hasn't been done before. The price we have been quoted there -- I don't know how many walls there are in total, but each one of them is worth, on the roof alone, something like \$20,000 and I think if you look at square foot costs on the plaza, I think you are looking at probably \$60.00 a square foot, *and that's just an estimate right now.*

~~Mr. Shibley: I think we should have an estimate --~~

~~Mr. Moog: -- right now.~~

~~Mr. Shibley: I think we should have that photograph,~~

~~at least one of these made an exhibit.~~

~~Mr. Moog: Yes.~~

~~Mr. Shibley: The one that shows the~~

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~~square foot. And that's just an estimate. Now~~

Mr. Shibley: I think we should have that photograph, at least one of those, made an exhibit.

Mr. Moog: Yes, I think ..

Mr. Shibley: The one that shows the ...

Mr. Moog: ...that should be very explanatory.

You can also see the multi-levels where people can walk or ~~just~~ spend their breaks and lunch hours and so on. ~~There~~ There is to be a pond in the middle where we are negotiating with the people from the Zoo to perhaps have some exhibition, an interest created with some animals, whatever they are we don't know at this moment, but something of interest. There will be water there and something very nice to look on ~~to~~ either from the building or from the commercial areas surrounding this court area.

Mr. Shibley: Now, we'll have those next photographs. I would like them to be made exhibits, Mr. Chairman, so that ...

Mr. Chairman: Let's group the whole group of photographs in one exhibit.

Mr. Shibley: That will be fine.
All part of exhibit ...

Mr. Chairman: 222.

Mr. Shibley: Thank you.

Mr. Moog: The reason Hanscomb Roy had difficulty appraising all that, they didn't know that this was going on while ~~we~~ we were ourselves in the process of finalizing plans and while we were under construction. This is an expensive method of doing it, particularly if you have to tear out walls which are already there, and you have to - the square footage cost is a multiple of that if you have a clean ~~line~~ ^{line} and we certainly didn't have a clean ~~line~~ ^{line} on that because ~~there~~ there is a complicated structure. It's custom built.

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Mr. Shibley: Now I want to take you to another topic about the building, Mr. Moog, and that has to do with the efficiency ratio of this building. Can you tell the committee what is the present estimate of the gross floor area as compared to the net usable area?

Mr. Moog: I ~~have~~^{would} have to preface that by saying I'll give you my closest estimate.

Mr. Shibley: Yes.

Mr. Moog: I don't really have the exact ratio at my fingertips but I believe it is in the 90 or 92 per cent range.

Mr. Shibley: The efficiency ratio?

Mr. Moog: The efficiency ratio, yes.

Mr. Shibley: I'm going by rough figures myself at the moment. You are talking about 1,300,000 square feet gross - I am sorry - 1,200,000 square feet?

Mr. Moog: It is in that general range I think.

Mr. Shibley: You might get assistance from Schedule C of the contract.

Mr. Moog: I think it is closer to the sketch ~~than~~ⁱⁿ the contract.

Mr. Shibley: Yes, I would like to go over that with you so that we fully understand what we are talking about in terms of area.

Mr. Chairman: Schedule C, Mr. Allan.

Mr. Deans: Is it true that you are going to have bronze busts of the committee members strategically located on the plaza?

Mr. Chairman: I was going to ask him to put a cage for the Chairman down near that water.

Mr. Henderson: Mr. Shibley, will there be evidence as to the efficiency area later?

Mr. Shibley: I want to cover this and then we are going to talk efficiency.

Mr. Henderson: Fine.

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Mr. Chairman: All I can say is it looks about a quarter way through, Mr. Allan.

Mr. Shibley: It is approximately - I agree with the Chairman - it is approximately a quarter of the way through the exhibit. Can you go down that list and explain these items to the committee so we understand - what I want to know at the end, Mr. Moog, is what is the area, according to this schedule - and I know it may be a variable from this according to actual measure at the time, but I want to know what of these items are areas against which rent is payable by Hydro and which are areas not to be included in the rental computation?

Mr. Moog: I believe the best answer I can give you on that is that all areas which are useable and where people can be placed ~~are~~ on.

Mr. Shibley: Well let's go down the list - mechanical penthouse, that would not be included in the ~~rentable~~ ^{rentable} area?

Mr. Moog: Not the portion where the machinery would be sitting. There may be a portion which is useable area, ~~there~~ which can be utilized by Hydro.

Mr. Shibley: Just before we go down this list, at the time the building is completed and the rent is to be established, is it intended that there be a professional computation of the area.

Mr. Moog: Yes, ^{Mr. Shibley, absolutely} There will be Hydro's architect, our architect and -----

Mr. Shibley: Yes, and in this respect they use the standard -----

Mr. Moog: The standard established by -----

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(Mr. Moog)

...yes. There will be Hydro's architect, our architect.

Mr. Shibley: And in this respect they used a standard ---

Mr. Moog: The standard established by a schedule we provided to Hydro in accordance with the ~~BOMA~~ ^{BOMA} ~~standards~~ regulations of a certain year.

Mr. Shibley: If we can go down this schedule, then on the fourth to nineteenth floors, that would be rentable save and except, I gather, for the ---

Mr. Moog: Stairwells, elevators, right. And ducts.

Mr. Shibley: Do those areas indicated there, are they exclusive of the stairwells, elevators and ducts?

Mr. Moog: I believe you are looking at the gross areas here.

Mr. Shibley: These are gross?

Mr. Moog: I think so, yes.

Mr. Shibley: And then the mezzanine, that's self-explanatory. Ground floor, have you got any comments to make in that respect? I'm thinking of recessed area.

Mr. Moog: Yes. We reached a settlement with Hydro. You see, under the initial ~~BOMA~~ ^{BOMA} rules they would have had to pay for a larger area than they are now paying. They are paying a lump sum for all recessed area, which I believe - correct me if I'm wrong - it's \$25,000 per annum. It would have otherwise been a much larger figure. That was a saw-off.

Mr. Shibley: Right. And then the upper concourse and lower concourse, are these again gross areas from which there may be some deletions?

Mr. Moog: There would be deletions from these, yes.

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Mr. Shibley: Now, when you gave a factor of 90 to 92 per cent, you're talking about ---

Mr. Moog: I think I referred to the office area in general.

Mr. Shibley: And in that respect, Mr. Moog, and I must say I myself benefited from a visit with you to the Transamerica Building.

Mr. Moog: We have about the same efficiency in the Transamerica Building, Mr. Shibley, if that would answer your question.

Mr. Shibley: It was suggested earlier, Mr. Chairman, that we might visit some buildings, and I am not so sure it's not a good idea if we were to look at the Transamerica building because, as I take it, Mr. Moog, many of the features that you intend to incorporate in the office portion of this building are the same as in the Transamerica Building. Is that correct?

Mr. Moog: Quite correct, yes. Particularly as far as the mechanical system is concerned.

Mr. Shibley: And in respect of the efficiency in particular, I'm trying to phrase this correctly, the system that you are installing in the Hydro and that is already installed in the Transamerica Building, is ^A ~~the~~ system which has the effect of creating more net useable space. Is that right?

Mr. Moog: Useable space. Very correct, Mr. Shibley.,

Mr. Shibley: Because the air conditioning system is built right into the wall.

Mr. Moog: And into the ceiling.

Mr. Shibley: And into the ceiling.

Mr. Moog: That is right. Rather than into the room itself where people will be sitting.

Mr. Shibley: It has the effect, your system, of expanding vertically the distance between floors. Is that correct?

Mr. Moog: Right.

Mr. Shibley: That doesn't add to the rental payable.

Mr. Moog: That is correct.

Mr. Shibley: On the other hand, it has the effect of diminishing the width of the area that would normally be used up by air conditioning equipment.

Mr. Moog: By apparatus.

Mr. Shibley: Apparatus. And extends the useable floor area.

Mr. Moog: That is quite correct.

Mr. Shibley: And to make the record completely ~~me~~ fair to you, when measuring for rental charges, the measure that's taken is to the window line.

Mr. Moog: That is correct.

Mr. Shibley: And even though the air conditioning equipment extends out into the room or into the floor, that is still space for which rent is charged.

Mr. Moog: That is right. This is one of the reasons why we developed our system. In order to give a greater benefit. And we made quite a point when we deal with General Foods or Transamerica, to show them that they can have a saving of approximately five per cent on that area alone, where they can place desks and people, rather than having a big air conditioning unit sitting on that floor they pay rent ~~for~~ for. That's a very important consideration. Five per cent on, say, some \$5 rental is 25 cents a square foot right there.

Mr. Shibley: I'm not sure. I'm trying to get it on the record with you, Mr. Moog, and I'm just a little

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Mr. Shibley: I am not sure, I am trying to get it on the ~~record~~ ^(with you) record, Mr. Moog, and I am just a little bit anxious because without being on ~~the site~~ ^{site} it is very difficult, I think you will agree, to really conceive of what you are trying to get across here. Is that right?

Mr. Moog: That's quite right.

Mr. Shibley: Yes, and I am going to seriously put this to the committee. Mr. Allan has suggested it previously, but because so much of what is intended for the upper portion now, I am talking, of this building, is akin to what is in the Transamerica building, that this committee might spend a half hour looking at that building.

Mr. Moog: I would really welcome that visit.

Mr. Shibley: Yes, as I say, Mr. Chairman....

Mr. Chairman: I would have the authorize the expense of the extensive tours that you are suggesting.

Mr. Moog: Be my guest.

Mr. Shibley: I am not suggesting we make a trip to Switzerland, Mr. Chairman, I am only suggesting we go to Yonge and Eglinton. We can even go by subway.

Mr. Moog has made this suggestion to me previously, and I know I have benefitted by going through the building.

Mr. Chairman: Mr. Allan, as you ~~he~~ said, has suggested it, and I hope that we will have time to look at some of these various buildings.

Mr. Shibley: Well, as I say, it may be that, even towards the latter part of today, depending on how the day goes along, we might get that change, but at some propitious moment, I would like to think -- is there still a floor area which is open as to mechanical system.

Mr. Moog: I would have to check that, but we can certainly make it open.

Mr. Shibley: Now then, I am trying to be as complete as I can, Mr. Moog, and I ask you now if I have covered with you the

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(Mr. Shibley)

elements of the building that you consider are unique and advantageous. Are there any other topics that you want to cover?

Mr. Moog: Perhaps, to assist you, Mr. Shibley, and the committee, in just assessing the one feature about the greater benefits, really, ~~and~~ to the tenant, who, in the case of other buildings, and without any disrespect to the Toronto-Dominion building or any of those other buildings, use other ~~and~~ systems, there is usually quite a lot of perimeter, very valuable perimeter space, used with apparatus, which usually extends into the room by something like 18 inches, or 20 inches, and also creates, usually, some draft, or noise, ~~and things~~ like that. In our case, we have, I believe it is around three and a half inches, just the thickness of the wall, used as an air chamber in which is built in the slot to distribute the air, just as I have explained in my memorandum regarding air-conditioning.

Mr. Shibley: Fine. I have to tell you, Mr. Moog, with all frankness, I really wonder whether the committee members ~~do~~ read that sufficiently carefully to understand and follow it, which is why I am suggesting that we might have a look at it.

Mr. Moog: I think that would be the easiest.

Mr. Shibley: I think that in half an hour of looking at that building you can better explain. There is another element in the TransAmerica building that you pointed out to me, having to do with the commercial development that you have ~~been~~ created...

Mr. Moog: That's right.

Mr. Shibley: between the TransAmerica building and the Canada Square building which is right on the corner. Would you like to comment on that?

Mr. Moog: We had a more or less similar problem. The Yonge-Eglinton area badly lacked good shopping and restaurant facilities, and we dealt with tenants and it is the total environment that you are talking about again, ~~and~~ People say, "Well, that's all fine and good, but where are we going to have lunch, and where can we buy something during our free time" and so on.

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B.A.

H-1946-3

(Mr. Moog)

So we took it upon ourselves to actually use an upper floor and make a shopping concourse out of that upper floor. That has not been easy and we had to assist greatly with all the shops in there. To some extent we had to even build them ourselves, which we did, and we now have a very successful shopping concourse, on the second and third floor at Yonge and Eglinton, ~~and~~ ^{and} my friends as Y and R say these things can't be done, well, they can be done ^{but} with more effort and much more application. If you do it in any normal way, and put a "For Rent" sign on it, I am sure it just will never go. You have to assist these shops. We are doing exactly the same thing in the Hydro building.

Mr. Shibley: That was why I raised it with you, because it has been a point of contention as to whether the commercial area was a feasible project for this ~~site~~ site, and....

Mr. Moog: We do it because we think it is necessary, not because of economics, Mr. Shibley: That is the whole point. We think we are giving Hydro a great benefit if their people have the advantage of a very fine ^{shopping} concourse, restaurant facilities, and ~~and~~ we are planning a complex of some four to five restaurants in there.

Mr. Shibley: Four to five?

Mr. Moog: Four or five.

Mr. Shibley: Yes, and other stores as well.

Mr. Moog: And other stores as well, yes.

Mr. Shibley: Now, in that respect ~~has it been decided~~ ~~any~~



(Tape H-1947 follows)

H - 1947 - 1

(Mr. Shibley)

~~Now in that respect~~ have you had any professional advice or surveys made as to ~~the~~

Mr. Moog: Yes, and they range all the way around the clock from plus to minus; and we have often had that situation and we believe that with our own efforts we can cope with this problem.. We know it is not an easy one. If we didn't want to provide that service, ~~providing~~ ^{certainly} for monetary remunerations, I don't think we would have done it, but I think it will bring ^{life} ~~back~~ to the building and it will bring the desired atmosphere and environment to the building.

We believe in creating a project rather than just throwing up some ~~structure~~ ^{brick} and mortar.

Mr. Shibley: This was actually - well first of all it was a building that had to pass approval by the University Avenue committee and city planning?

Mr. Moog: That is right.

Mr. Shibley: And did you have any difficulties in that respect?

Mr. Moog: On that particular item we had 100 per cent support. Even Mr. Sewall supported that particular request ^{about} ~~the~~ ^{living} ~~building~~ up University Avenue.

Now I have to be clear on that. We have not applied for the final consent, but we have been assured by everybody, particularly the people who usually would oppose, that that is what they would like to see on University Avenue.

Mr. Shibley: What acreage is involved in the plaza area which would be of common use to the public at large?

Mr. Moog: You mean - well we are using the total site.

Mr. Shibley: Yes. I mean just that portion of ~~it~~ which is the waterfall and etc.

Mr. Moog: Oh, the landscape area?

Mr. Shibley: Yes.

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Mr. Moog: Very extensive but in order to be correct I would have to get our architect to ^{calculate} ~~estimate~~ it, but it is ~~is~~ a big, big plaza.

Mr. Shibley: Now is there anything else you want to tell us about the building?

Mr. Moog: Well all I can say is we started from the plaza level up to the shape of the building, which is a costly shape, to the best of curtain walling, and in the interior we used the best of mechanical equipment; we have finalized more or less our thinking and planning on a very elaborate ceiling, which I don't think has been installed just like that in any other building and will look very attractive; because of the curved shape you just don't have rows of lights, you get a pattern in which will be rather unique.

Elevators, again we have done the best we can - high quality elevators.

Mr. Chairman: What about the speed of the elevators?

Mr. Moog: I believe they are 800-feet a minute.

Maybe they are 1,000.

Mr. Chairman: The reason is I just looked - actually it would be 4,000 pounds at a speed of 350 feet per minute.

Mr. Moog: Oh that must be ~~-----~~

Mr. Chairman: That is from the lower concourse to the 20th floor, mechanical penthouse.

Mr. Moog: That must be the freight elevator, Mr. Chairman.

Mr. Chairman: That may be, but it says eight ~~many~~ cabs No, the service elevator, all right, all right.

Mr. Moog: They work on 16 cabs, plus a few other ones.

Mr. Chairman: All right, all right then.

Mr. Moog: In other words I think we have more than required.

Mr. Chairman: I ~~was~~ going to ask how the speed of those

H - 1947 - 3

(Mr. Chairman)

elevators corresponds with what would be say in the Toronto-Dominion or the Commerce Court?

Mr. Deans: Or in the Legislature building?

Mr. Moog: Mr. Candy said the high rise are 800 and the low rise are 600 feet a minute.

Mr. Chairman: Have you any idea how that would compare say to the Commerce Court or one of those buildings?

Mr. Moog: Well they would provide at least as good a service as those buildings have, but that is a different elevator system altogether once you have to go up to the 50th floor.

Mr. Chairman: I realize that, and that is why I was wondering.

Mr. Shibley: That's another item, I believe, that is in the Transamerica Building. You have some -----

Mr. Moog: We have a patented door-closing device which speeds up the round trip on the elevators. In this particular case we have worked with a different company and we are getting a system very similar to that.

Mr. Chairman: I was commenting because I have been in the present Hydro buildings and I am not much impressed by the speed of their elevators.

Mr. Moog: I am quite sure.

Mr. W. Hodgson: Mr. Chairman, Mr. Moog explained the building. I would like to have him explain the heating system, how the building is going to be heated and about the storage tank that we were talking about here yesterday being traded off for something else - can you explain that to us?

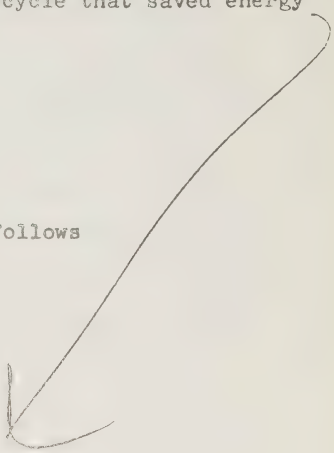
Mr. Moog: It is a very good question. We didn't intend to go all out and do that new one right in the beginning because we quite frankly didn't know anything about it, but I believe it was Hydro who suggested to us to check into a new method of conserving energy, whereby you would store the energy provided

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(Mr. Moog)

through heating and through the energy consumed by apparatus,
or you would also save the ~~store~~^{chilled} water, and altogether conserve
that in one huge storage tank, and in our case it happened to be
1.5 million gallons, which would have very complicated baffling
systems and apparatus in it ~~and~~^{to} then recycle that saved energy



Tape H - 1948 follows

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M.R.

(Mr. Moog)

~~...very complicated baffling systems and apparatus to it~~
~~to then recycle the energy~~ so that in effect you really don't have a heating system, you just recycle the heat generated within the building, including the heat generated by people.

Now, it's a new one again. We are experimenting.

We believe there is none of those systems of that magnitude and that sophistication in this country and we don't know of one in North America, but apparently the Japanese have tried this with some success, and as soon as this hearing is over I think I will take my engineers and architects over there and we will study it in greater detail, but we are, at this moment, building this huge tank, again at our cost, without any extra to Hydro, if we are successful, and I'm sure we will be after we get the bugs out after maybe ~~one~~ three, four, five years, I'm sure we will be copied again just as we are copied on our air conditioning now. But I think it is a unique system and it will be another first. That's what we are doing, *Mr. Hodgson*.

Mr. W. Hodgson: There is no heating plan as such?

Mr. Moog: We will have some standby heat, and I believe we are buying that from the University Generating Station. There will be some stand-by heat for the commercial areas. And for the hot water use, I believe. The rest of it, there will be no boiler rooms and things like that, no.

It's quite a ~~small~~ *small* system.

Mr. Chairman: Are there any other questions?

I will suggest then that we adjourn. Let's see - it's ten to one now.

Mr. Shibley: (*Inaudible*)

Mr. Chairman: Well, I've got to name a time though.

It's one now - about ~~2.30~~ 2.30?

Mr. Shibley: That's fine.

Mr. Henderson: Are you going to try *and plan the trip* this afternoon, Mr. Chairman?

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Mr. Chairman: That's why I suggested the extra 2.30 - Mr. Moog, I should say, we won't want you again then I guess until probably Tuesday, but Mr. Shibley is now trying to line up other witnesses.

Mr. Shibley: I think I have another witness committed for this afternoon and I don't know that it will take the whole afternoon, in which event we might get up to see the building later this afternoon.

And then I can arrange for other witnesses for tomorrow as well. I think it's a convenient time to break Mr. Moog's testimony.

Mr. Moog: May I ask a question, Mr. Shibley?

Mr. Shibley: Yes.

Mr. Moog: We are trying to get away to New York, as you have heard. Is it possible that you could continue with as much ~~of~~ my testimony as possible so that that side of it ...

Mr. Finlayson: I think he send that you are excused until Tuesday morning.

Mr. Chairman: Until Tuesday.

Mr. Shibley: Yes.

Mr. Finlayson: ^{The only} ~~the only~~ questions I take it that you have arising out of Company X ~~is~~ ^{isn't} let's accept it.

Mr. Shibley: I'm really broadening my own limitation in light of what you said Mr. Finlayson, and the areas that I want to examine, and I just feel that in light of your pending meeting should be left until Tuesday and I think it is in everyone's interest that we just leave it now. I wanted to give Mr. Moog a chance to tell us about the building. If we go up and see the building, it I'm sure will enlighten everyone - you are not getting away to New York until tomorrow?

Mr. Moog: We plan to leave with the early flight.

Mr. Shibley: Tomorrow? ?

Mr. Moog: I believe there is one at seven.

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Mr. Shibley: Well, that's fine. There won't be any difficulty. I'm just waiting to hear from Mr. Bell as to this other witness, and then tomorrow you will be excused.

Mr. Moog: It would have just assisted me if I could say, well, my evidence is finished, that's all I'm trying to say.

Mr. Shibley: Well,

Mr. Chairman: That was the point I was trying to make earlier.

Mr. Shibley: Let's not open that topic again.

Mr. Chairman: My thought though about trying to take a trip this afternoon is more along the line of that there might be other places that we'd like to visit besides this one ...

Mr. Shibley: Yes, that's true.

Mr. Chairman: ...building and it might be handy to go by bus.

Mr. Henderson: Mr. Chairman, could you arrange a bus for the morning? We could meet here in ~~the~~ the morning and meet the bus at the front doors?

Mr. Chairman: I think it's important, ~~Lynne~~, that we keep going with our hearing. If we are to visit places, I think maybe we can work them in at an evening or at a different time, but why I'm just ~~hesitating~~ ^{on saying} hesitating ~~this~~ ^{on saying} this afternoon, because I think there is more than the one place we'd like to see. I think you had in mind other places, Mr. Allan?

Mr. Allan: Yes.

Mr. Shibley: Well, I think in fairness that the IBM centre might be visited. It has been the subject of so much comment and also the ~~Travellers Building~~.

Mr. Allan: The Travellers Building.

Mr. Shibley: ~~The Travellers Building~~ ...Travelers Building, thank you, Mr. Allan and the OISE building may be an interesting building for us as well because it was built by this developer.

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M.R.

(Mr. Shibley)

So that those are buildings that are in mind.

Mr. Bullbrook: I'm not sure they'd let you in *the OISE*
building.

Mr. Henderson: I would like ~~xxxx~~ to go and
I have a delegation late this afternoon, that's what I was
think of, Mr. Chairman.

Mr. Chairman: Well, I would think it probably
will not be this afternoon. You've got a witness and maybe
you can line up a second and we can - I would hope that we would
do this by a bus and at some ...

Mr. Walker: We don't need a bus to go *to Transamerica.*

Mr. Chairman: Well, I'm thinking of more than
one place, that's all.

Mr. Deans: Mr. Newman would never permit you
to spend the money that way.

Mr. Walker: We are in the \$200,000 range
already.

Mr. Chairman: All right. Let's leave our field
trips to far away places to be considered at some other time.
We won't plan to go this afternoon. We will not need you
again, Mr. Moog, until Tuesday morning at 10.00 o'clock, and
we are now adjourned until 2.30.

The committee adjourns at 12:56 o'clock p.m.

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Gregory Rice
G.D. Finlayson, QC

Solicitor, Borden and Elliot:

Simon B. Scott

President, Canada Square Corp. Ltd.:

Gerhard W. Moog

List of exhibits introduced during this sitting appears on the next page.

INDEX TO EXHIBITS

Exhibit	Page	Description
218 218	1938 - 1	Letter - September 8, 1972, from G. W. Moog, Canada Square Corporation Ltd., to P. S. Thornton, Bell Canada.
219	1939 - 2	Letter - July 18, 1973, from D. J. Smith, Ellis-Don Ltd., to J. P. Bell, Shibley, Righton and McCutcheon - re political contributions.
220	1939 - 2	Letter - July 26, 1973, from G.V. Tatham, Y and R Properties Ltd., to J.P. Bell, Shibley, Righton and McCutcheon - re political contributions.
221	1940 - 2	List of political donations by Canada Square Corporation Ltd., and associated companies.
222	1944 - 1	Photos of plaza for Ontario Hydro head office building.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, August 29, 1973

Afternoon session

1949-1965

Aug. 29/73
2.37 to 2.40 pm
DT

The committee resumed at 2.35 o'clock, p.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting to order. We have Mr. Down, Alastair Down, who is to be the next witness and Mr. James Garrow who, I understand from the Blake firm who is representing him. Is that right, Mr. Garrow?

Mr. Garrow: That is correct.

Alastair Dow, sworn.

Mr. Shibley: Mr. Dow, would you please tell the committee what is your occupation?

Mr. Dow: I am a reporter for the Toronto Star.

Mr. Shibley: And how long have you been a reporter with The Star?

Mr. Dow: Almost 13 years now.

Mr. Shibley: What particular sphere of writing are you engaged in?

Mr. Dow: I work in the Financial Department.

Mr. Shibley: Yes.

Mr. Dow: I am ~~not~~ ^{NOMINALLY} the ~~an~~ assistant financial editor but I am really a reporter.

Mr. Shibley: Have you in the past had occasion to make enquiries into the letting of the contract for the Ontario Hydro building to Canada Square?

Mr. Dow: Yes, I have.

Mr. Shibley: What was the first occasion on which you had any communication respecting the Hydro head office building?

Mr. Dow: The first I learned of it, Mr. Shibley, was some time late last summer, after playing squash with a friend, and he mentioned to me that he had had an interest in a group that would like to have had something to do with it, the construction of the Hydro headquarters.

Mr. Shibley: Yes, but just to pinpoint time, can you assist the committee as to when that first conversation took place?

Mr. Dow: Well, I believe it to be last August or September because I remember that we were sitting in a ~~part~~ portion of

Aug. 29/73
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DT

(Mr. Dow)

this squash club which was not the bar because the bar is closed during the summer and I'm not sure but I believe it reopens at the end of August or the end of September so it would have been in one of those months, most likely September.

Mr. Bullbrook: Does that mean that normally you would have been in the bar, Mr. Dow?

Mr. Dow: We were having a drink so certainly we would have been in the bar if the bar had been open, yes.

Mr. Shibley: Now, would you please tell the committee -- I want you to tell the committee as precisely as possible the content of the information disseminated to you by your friend on -- but before we do that, could you in general terms and without naming your friend, give us some description of what he does or his status in general.

~~Mr. Dow: No, I would rather not tell you what he does.~~
~~Mr. Shibley, other than to say ~~that~~ he is --~~

(H-1950 to follow)

H-1950-1

August 29, 1973
2:40 - 2:45 p.m.
B.G.

(Mr. Shibley)

~~just in general.~~

Mr. A. Dow: No, I would rather not tell you what he does
Mr. Shibley. Other than to say he is a man of such means and
connections that I just knew he wasn't talking off the top of his
head.

Mr. Shibley: Would he be a person who might be expected
to be involved with a project such as the Hydro head office building?

Mr. A. Dow: Do you mean of the scope of that?

Mr. Shibley: Yes.

Mr. A. Dow: Yes.

Mr. Shibley: Yes; and a person of responsibility?

Mr. A. Dow: Yes.

Mr. Shibley: All right; ~~would~~^{will} you then now tell the
committee as precisely as you can what information your friend
provided to you some time during the latter part of August or
early September 1972.

Mr. A. Dow: Well, I can only give you my best recollection.^{tion.}

Mr. Shibley: Yes, I understand.

Mr. A. Dow: He may have said "Do you know a man called Moog",
certainly something to that effect.

Mr. Shibley: Yes.

Mr. A. Dow: He said that he had been party to a plan which
had been going on for a year or the best part of a year, or he mentioned
a year in any event. It may have been more than a year.

Mr. Shibley: Your friend had been party to.

Mr. A. Dow: My friend hadx been, yes, sorry. -

Mr. Shibley: yes.

Mr. A. Dow: - whose objective was to have an interest in
the eventual Hydro headquarters.

Mr. Shibley: Yes.

Mr. A. Dow: And he said he had been disappointed, and I

August 28⁹, 1973.
2:40 - 2:45 p.m.
B.G.

(Mr. A. Dow)

took it to mean that he had been recently disappointed, because it had been intimated to him that a Gerry Moog, and I don't recall if that name ~~meant~~ meant anything at all to me at the time, certainly if I'd heard it before, it didn't mean much to me, had had the inside track, that he was a friend of the Premier's and that for his group to pursue the matter further was, in effect they would be hitting their head against a wall.

Mr. Chairman: Mr. Shibley, I am just wondering here. This is hearsay evidence that we are letting in pretty well here, not that our rules don't prohibit that. There is no thought of calling this other person, I gather. I just wonder what your comment was in regard to that.

Mr. Shibley: Mr. Chairman, I don't know who the other person was, so that I cannot call him.

Mr. Chairman: Can you comment on the hearsay evidence, for instance.

Mr. Shibley: Well, I'm in this position. I'm not so much interested in the hearsay per se as the sequential communication of that information, as it will be outlined by ~~the~~ this witness, and whether or not - I am not introducing the evidence as proof of the fact that Mr. Moog had the inside track, but rather as proof of the fact that a friend of Mr. Dow told him this story on this occasion.

Mr. Chairman: Maybe, if we can limit it to that.

Mr. ^{SHIBLEY}~~A. Dow~~: That's an exception to the hearsay rule. If you ~~can~~ carry on, Mr. Dow. Was there something further said by your friend respecting indications made to his group ~~that there~~ as to their prospect of success chasing the venture?

Mr. Genest: Well, Mr. Chairman, I ~~want~~ ^{WANT TO} support what you've just said, sir. I know that it's essential for Mr. Shibley to place the evidence of this witness in context, but I don't think we need to labour charges made by an unknown person secondhand.

Mr. Shibley: All right.

Mr. Chairman: If we could keep more to the time because ^{OK}

H-1950-3

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2:40 - 2:45 p.m.
B.G.

Mr. Shibley: All right, except Mr. Chairman I think the relevancy will become more apparent, but we will go on with. What else did he put to you Mr. Dow? Or what did you say to him?

Mr. A. Dow: I should make it clear that I don't think he was telling me this with any particular motive in the sense that he wanted me to run back to the office and start making phone calls and write a story. This was a purely social conversation, and I think he meant it to be such and I don't think he thought anything more of it than that.

Mr. Shibley: Right.

Mr. A. Dow: However, I expressed an immediate interest in it and I said "Do you mind if I pursue this"?, and he said "Not at all, but I would rather not be..."

(Tape H-1951 follows)

August 29, 1973
2.45-2.50 p.m.
M.F.

H - 1951 - 1

(Mr. Dow)

~~not at all but I would rather not be~~ - that you bandy my name around or that ~~said you~~ I would rather not be involved, which is a natural kind of reply that I might get under the circumstances I thought.

Mr. Shibley: Did he give you a reason?

Mr. Dow: He said "I don't need the aggravation and I do business in this province" - I just took it to be a natural desire for anonymity if I was going to create a fuss over this.

Mr. Shibley: Now what was your reaction to this information?

Mr. Dow: Well I was excited about the possibilities that I thought might have arisen from this conversation, and the first thing I did, and I did it quite shortly afterwards, was to find out what information we had in our files at the office about the Hydro headquarters, because my ignorance was boundless about the Hydro headquarters. I may have heard that they were going to build one but that ~~was~~ would have been the extent of my information about it.

There was nothing in our files that I could find which would help to educate me and I called Hydro, I think I called their public relations department, and asked them to send me whatever material they had on their new headquarters building. In response to that they sent me a press release dated August 25th, and I think my reaction to that was it really didn't tell me a great deal.

Now I can't remember in detail what other inquiries I made, but I think in general my approach was that I wanted to learn as much about it as I could before I went to George Gathercole, anyone at Queen's Park, and when I say that I mean anyone in the government. I wanted to be prepared to ask the right questions.

Mr. Shibley: Who was the first person you went to see?

August 29, 1973
2.45-2.50 p.m.
M.F.

H - 1951 - 2

Mr. Dow: Well, I didn't have any success in finding out much about the Hydro headquarters beyond the press release or about how these decisions were made, and I didn't know a great deal about the mechanics of bidding on such a job, and really because I was unable to find out anything I thought that I would go to the Opposition Hydro critiss, and the first person I called among those people was Mr. Deans, Ian Deans.

Mr. Shibley: And did you tell Mr. Deans in substance what was told to you by your friend?

Mr. Dow: Yes I did.

Mr. Shibley: And when were you speaking to Mr. Deans?

Mr. Dow: I can't tell you exactly, Mr. Shibley, ~~except~~ other than to say that I was interested enough in this story that it would have been very, very shortly after the first information, or at least ~~the~~ conversation with my friend.

Mr. Shibley: Would that be roughly in early September, 1972?

Mr. Dow: I would think some time in September, perhaps even early October.

Mr. Deans: Let me help you if I can. It must have been either late August or early October because I was in Europe from the end of August until the 28th of September.

Mr. Dow: Well, that does help me.

Mr. Walker: Until the 9th of October.

Mr. Deans: I am sorry, the 9th of October we came back. ~~We~~ were gone 28 days, so it was the end of the first week in September.

Mr. Dow: So that I would have thought that it was shortly after - that it was in early October in that event.

Mr. Deans: We will check the dates; John Holtby has the dates.

Mr. Shibley: In any event, who else did you speak to?

Mr. Dow: I think Mr. Deans is the Hydro critic for --

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2.45-2.50 p.m.
M.F.

H - 1951 - 3

(Mr. Dow)

if there is such a thing - for the NDP.

Mr. Genest: I didn't know he was a critic.

Mr. Dow: I subsequently spoke to Vernon Singer, who
I mistakenly thought to be ~~the~~ *the*

Tape H - 1952 follows

August 29/73
2:50 - 2:55 pm
CA

H-1952-1

(Mr. Dow)

~~I subsequently spoke to Vernon Singer who I mistakenly thought to be~~
the Hydro critic for the Liberals.

Mr. Bullbrook: This is becoming almost incestuous - Vernon Singer, the Hydro critic.

Mr. Dow: Mr. Shibley I would like to make one thing clear. I didn't phone Mr. Singer right after, immediately after I phoned Mr. Deans. Mr. Deans and I agreed that he might make further inquiries and get back to me. He didn't.

Mr. Shibley: Yes. -

Mr. Dow: And then I phoned Vernon Singer. I just wasn't phoning somebody from one party and somebody from the other party five minutes later. It didn't happen that way.

Mr. Shibley: Would it be within a week of discussion with Mr. Deans?

Mr. Dow: It was after an appropriate lapse of time anyway, when I felt, well if I haven't heard from him now I am not going to sort of thing, yes.

Mr. Shibley: All right. Now..

Mr. Dow: So then I had to find some other possible avenue of information to pursue.

Mr. Shibley: If you spoke to Mr. Deans in October, what date did you say you came back?

Mr. Deans: I'm not sure. John Holtby will know. We back of October, on the 9th, ~~that date~~

Mr. Shibley: Some time following October 9. Can you give us some indication as to when you spoke to Mr. Singer?

Mr. Dow: I would have thought perhaps a week after or maybe three or four days after. I don't remember when Mr. Deans said he might get back to me, but I think he probably said a couple ... I don't know a couple of days.

Mr. Renwick: Mr. Chairman: I don't think we should fasten on the October part of it.

Mr. Deans: It may be early September.

H-1952-2

Mr. Renwick: Because it may be that if Mr. Deans was away 28 days going back from October 9, it may have been late August or very early September, which would coincide with Mr. Dow's original.

Mr. Shibley: Which I might say was..

Mr. Dow: It may have been.

Mr. Deans: That could be..

Mr. Shibley: That had been his information to ~~me~~, but ~~he~~ varied his thinking.

Mr. Renwick: And it might be the reason why Mr. Deans didn't call him back is that he went away.

I'd hate to think that Mr. Deans *blew it!*

Mr. Shibley: In any event, Mr. Dow.

Mr. Deans: Thank you Jim, you are a big help.

Mr. Shibley: You spoke to Mr. Singer, and what did you tell Mr. Singer?

Mr. Dow: I told Mr. Singer most, ~~if~~ if not all, of the general nature of the information that I ^{had} ~~originally~~ got, and I ^{had} ~~also~~ transmitted to Mr. Deans.

Mr. Shibley: Now when you spoke to Mr. Singer, did you call him or did you visit him? - 1453-1 - 11

Mr. Dow: No, I called him

Mr. Shibley: And from where did you call him?

Mr. Dow: Well I remember making the telephone call from the phone in my kitchen at home.

Mr. Shibley: Yes.

Mr. Dow: Or at least he returned it to there if I didn't get him... at least I was there when he phoned back. In any event that is where I was when I spoke to him.

Mr. Shibley: Well will you tell the committee about the conversation you had with him?

Mr. Dow: I've known Mr. Singer for several years and I said; "Hello, Vern. I hear that a fellow named Moog is a pal of the Premier and that it was arranged that Moog would get the Hydro headquarters contract and that others, or another at least were discouraged from pursuing the job Because they were told it was all sewn up in advance, so to speak".

H-1952-3

Mr. Shibley: Yes.

Mr. Dow: I don't know why I did this, but I felt there was, what I might describe as an ominous silence at the other end of the line and something prompted me to stop. But I had really given ~~him~~ him the bulk of the information I had. And I said "By the way Vern, you don't happen to act for Moog do you?". And he said: "Yes, as a matter of fact I do act for him on the Yonge-Eglinton ~~Canada~~ Square building."

Mr. Shibley: Yes.

Mr. Dow: At which point I just didn't pursue the conversation with him any further.

Mr. Shibley: What was your reaction in that respect?

Mr. Dow: Well after I hung up the phone I was rather annoyed ~~that~~ that at the very outset of our conversation he hadn't said to me, as soon as I mentioned the name Moog, or Hydro headquarters, or whatever, that he hadn't said: "Look I, this isn't a matter I am in a position to discuss with you".

Mr. Shibley: Yes. I can tell you now that ~~Mr. Dow was away from the office during the period September 14 to October 11 and would ask you to reconsider the finding.~~

H-1953-1 Follows

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2.55 to 3.00 pm
DT

(Mr. Shibley)

Mr. Deans was away during the period September 14 to October 11 and would ask you to reconsider the timing of your conversation with him in light of the fact that he was still here at mid-September. Your conversation with your friend in the squash club you said took place in the latter part of August or early September. You see Mr. Deans sort of threw you off in that respect by suggesting that he had been away throughout September.

Mr. Dow: I am sorry, I can't --

Mr. Shibley: All right.

Mr. Dow: Certainly if it was after he came back, it must have been very shortly after he came back, because I know --

Mr. Shibley: Might it have been before he left, that's my point?

Mr. Dow: Quite possibly, yes.

Mr. Shibley: And it is only -- I shouldn't put "only" but -- it is important to the committee to know as precisely as possible when you spoke to Mr. Singer in terms that you have outlined. Can you help us as to that?

Mr. Dow: Not beyond the fact that it was -- I would guess, and I am probably being accurate, within a day or ~~two~~ two, within a week of my conversation with Mr. Deans because I know that when I spoke to Mr. Deans, I waited. I was hopeful.

Mr. Renwick: Mr. Chair^aman, perhaps we should go back prior to the time of Mr. Dean's interjection, because going back to the time when the bar ~~and~~ in the squash club was closed, you earmarked your conversation with your friend as being that time and your last recollection, as I took your evidence at that time, was the latter part of August or early September and that you followed up on it --

Mr. Dow: Pretty quickly.

Mr. Renwick: Pretty promptly, so it seems on balance that it was before Mr. Deans went to Europe.

Mr. Henderson: Mr. Chairman, ^{to add to} Jim's remarks -- I wonder if this press release of August 25th, was that the first time you had saw it or was it knowledgeable --

Mr. Dow: Mr. Henderson, I either hadn't paid attention

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DT

(Mr. Dow)

or hadn't seen anything about it, but certainly the press release was not a day old. By the time I inquired about it, it might have been a week, it might have been two weeks, it might have been six weeks old. I don't know. But I remember saying - well, gee, why hadn't I noticed that before, or whatever.

Mr. Shibley: Can you help us in this respect, had you spoken to Mr. Singer before the end of October, 1972?

Mr. Dow: I can't remember other than -- I just know that I was so excited, I really didn't waste any time getting after this thing right away.

Mr. Shibley: Yes. Who was the next person you spoke to about this?

Mr. Dow: Well, following my conversation with Mr. Singer, I felt that I had run out of possibilities at Queen's Park, but then I read in the newspaper about some questions that Mr. Nixon, the Liberal leader, was raising about the Fidinam affair and I thought - well, I really haven't talked to anybody in the Liberal party about this and if he knows ~~me~~ something about Fidinam or if he is interested in Fidinam, perhaps he knows something about the Hydro headquarters building, so I called Mr. Nixon.

Mr. Shibley: And when did you speak to Mr. Nixon?

Mr. Dow: Once again, I can't say precisely, but very shortly after I spoke to Mr. Singer.

Mr. Shibley: Yes, well when did you speak to Mr. Nixon?

Mr. Dow: ~~Yes~~ The date? The approximate date?

Mr. Shibley: Yes.

Mr. Dow: ~~Mr~~ Well, depending on when I talked to Mr. Deans, last October or November.

Mr. Shibley: I should tell you that Mr. Nixon's testimony is that he spoke to you either in early November or late October.

Mr. Dow: That would be in accord with my recollections.

Mr. Shibley: And you had already spoken to Mr. Singer prior to your communication with Mr. Nixon?

Mr. Dow: Yes, I had.

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Mr. Shibley: How long prior to your communication with Mr. Nixon had you spoken to Mr. Singer?

Mr. Dow: It wouldn't be more than a few days, or a week or two at the very most, because I was interested in pursuing this and I just wouldn't have let it lie around *follow*.

(H-1954 to follow)

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3:00 - 3:05 pm.
M.S.

(Mr. Dow)

~~at the very least because I was interested in pursuing this, and I just wouldn't have let it lie around for now.~~
So that having spoken to Vern Singer, I would have been immediately looking for ~~someone~~ someone else I could seek information from.

Mr. Shibley: Now then, in terms of your discussions with Mr. Nixon, what did you tell him? Did you tell him substantially the same thing as ~~your~~ your friend had told him?

Mr. Dow: Yes, I did. ~~And what he said~~

Mr. Shibley: And what did he say to you?

Mr. Dow: He said, "I really don't know anything about it, but I'd be interested in pursuing it." And I said, "Fine." He said, "Well, keep in touch on it." And I said, "But please don't do anything publicly because I am embarking on what I hope to turn out to be a story on this."

Mr. Shibley: Did you speak to anyone else on ~~the government side~~ What we might call the Conservative or the government side of the House?

Mr. Dow: Not that I can remember.

Mr. Shibley: In particular, did you have any discussion with Mr. Fleck?

Mr. Dow: I don't recall speaking with Mr. Fleck.

Mr. Shibley: Well then, having spoken to Mr. Nixon, either in late October or early November, what was your next communication?

Mr. Dow: With anybody?

Mr. Shibley: Yes. When was the next time anyone called ~~anyone~~ you or you called anyone?

Mr. Dow: The next time that I can specifically remember discussing this matter, or that I can put a date to a

(Mr. Dow)

discussion, was around Christmastime,

Mr. Shibley: Well, before you get to that, may I remind you of a telephone conversation with Mr. Hodges.

Mr. Dow: Oh, I beg your pardon. Immediately after my -- within a day or ~~two~~ two of my conversation with Mr. Nixon, a man that identified himself, I think, as his executive assistant or a member of Mr. Nixon's staff, his name I think was Ron Hodges, called up and said, "I've called Mr. Gathercole and he doesn't acknowledge or confirm what you've told us." He said, "Have you heard anything further?" And I said, "No, I really haven't done anything. And Hodges said, in effect, well, we'll keep in touch on the thing. I may have had more than one conversation with Mr. Hodges, but I just remember that.

Mr. Shibley: Then will you carry on to your next conversation you were going to tell us about?

Mr. Dow: During this whole period, and I know it sounds like a long time, I was making random inquiries, many of them informal and I honestly just don't remember what they were or when they took place. To best describe it to you, whenever I'd be in conversation with someone which involved the Ontario government, I might have brought this up, but I don't really remember anything of substance more than that until Christmastime when I had lunch with my friend who had originally told me about Mr. Moog and about his efforts to be involved in a plan^{which} would lead eventually to the construction of Hydro headquarters. There was a third person at that lunch, who was a member of that group. And while it was an entirely social occasion, I had hoped that perhaps I would learn something from either my friend or the third person.

↓ 1955 next

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M.R.

(Mr. Dow)

~~the third person.~~

Mr. Shibley: The third person was also a member of the same group that was interested in participating in the development?

Mr. Dow: Yes.

Mr. Shibley: And had he status with that group?

Mr. Dow: Yes, he did.

Mr. Shibley: When I say status, was he a senior official of that group?

Mr. Dow: Yes, he was.

Mr. Shibley: All right. Would you carry on, please?

Mr. Dow: We spoke only in very general terms about leasebacks, interest rates, things like that. But the point of questions that I would like to have asked I didn't ask I suppose because of the relationship I had with my friend and I thought and I think accurately that the third party to this luncheon was a little bit sensitive about talking to me or I suppose talking to any reporter.

So I didn't really learn anything other than general information about how these things were put together or might be put together.

Mr. Shibley: What did you do next?

Mr. Dow: I don't have any specific memory of anything that I did during January until - excuse me - until an airplane flight I took.

Mr. Shibley: Just before you get to that flight: Did you ever have conversation with a person by the name of Bert Petlock?

Mr. Dow: Petlock, Yes, I'm sorry. Bert Petlock is a public relations man in Toronto. I suspect quite early during the inquiries I was making I would have called him for this reason, I don't know anybody in the real estate business and at least, I don't know anybody very well and Petlock had

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(Mr. Dow)

acted for the Urban Development Institute and I thought, well, here's somebody that might know Moog. I may not have called Petlock with that question in mind. I may just simply have been talking to him and said to him, "do you know Moog or do you know anything about him?", because I'd looked up Moog's file at the Star, which was then - which then comprised I think one clipping and had to do with the - it's a lot ...

Mr. Shibley: It must go into volumes now.

Mr. Dow: I think this clipping had to do with the Ontario Institute for Studies in Education Building. It was just a tiny thing and I may have made inquiries of other people about Moog but in any event I wasn't able to find out anything and I phoned Bert Petlock and I said, "Do you know Moog?" and he said, "No", now whether he volunteered information to me right then or made further inquiries or not, I don't know. But in the end he said to me, "Moog is not one of the - he is just not one of the people you'd get to know among the developer club or association and whatever and he indicated Mr. Moog was his own man and ..."

Mr. Shibley: Right, okay.

Mr. Dow: So that didn't get me anywhere.

Mr. Shibley: All right. What was your next communication?

Mr. Dow: Then I think it was my flight. In February I went to Ottawa to help cover the federal budget and on the return flight I sat beside a gentleman who was an absolute stranger to me and we were just chatting about the weather and other topics of general interest. I think, in fact, we were probably sitting there reading the paper and ^{the} subject of Fidinam came up because this gentleman told me that he was interested in labour management relations and the purpose of his trip in Ottawa had something to do with that.

He said that his interest lay on the management side and it was in the construction industry. That may have prompted

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(Mr. Dow)

me to raise Fidinam. There may have been something in the paper or he may have raised it. I don't know. When the subject of Fidinam came up, I said, well, do you know anything about the Hydro Headquarters building and he gave me what I took to be a very knowing look which one way or the other I interpreted as meaning there is something that is really interesting.

Mr. Finlayson: Mr. Chairman ...

Mr. Chairman: We are really getting in to hearsay.

Mr. Finlayson: This is not hearsay; this is some drunk he met on the plane, as far as I can see.

Wouldn't it be fair to ask the witness if he inquired about who this guy was? Did you ...

Mr. Shibley: I'd like to ask him about that.

As a matter of fact ...

Mr. Finlayson: When we talk about ...

Mr. Shibley: Would you tell the committee what efforts we've been making to try to identify this person?

Mr. Dow: Well, what efforts we have been ...

Mr. Shibley: Yes.

~~Mr. Dow: I don't know the flight number and this gentleman did not ...~~

H-1956x to follow

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3.10-3.15 P.M.
M.F.

H - 1956 - 1

(Mr. Dow)

~~what efforts?~~

~~Mr. Shibley: Yes.~~

Mr. Dow: Well I don't know the flight number and this gentleman did not tell me his name. I think I volunteered my name to him. In any event it was conspicuous that he didn't give me his name.

Mr. Chairman: Maybe if we advertise he will come forward.

Mr. Finlayson: Mr. Chairman, with great respect, I think this is just awful.

Mr. Chairman: Well all right, Mr. Finlayson.

Mr. Finlayson: ~~He~~ is a complete stranger, the reporter doesn't know who he is and ~~he~~ met him on a plane and he got a knowing look from him ~~and I am blamed for this inquiry going so long.~~ *And he was drunk! I think it was --*

~~Mr. Finlayson:~~ *R.G. Hodges* Mr. Finlayson said -----

Mr. Chairman: No, Mr. Finlayson was the one who suggested that and that is not reasonable either. But when we talk about what was in a look from somebody that we have never met before and what he was trying to convey by it, that I think is going a little bit too far.

Mr. Renwick: A knowing look is not hearsay, that is -----

Mr. Genest: The more serious question is why are we hearing about this at all? Because it creates an atmosphere that is most unfortunate and most ~~unfair~~ unfair and I take the strongest exception to it. This is McCarthyism.

Mr. Chairman: Well you suggested to Mr. Shibley that the dates were important here.

Mr. Shibley: ~~And~~ I am going to make my purpose quite clear. This witness, whatever he was telling, has established the fact of communications with Mr. Singer, with Mr. Nixon, and a communication also ~~with~~ between Mr. Hodges and Mr.

H - 1956 - 2

(Mr. Shibley)

Gathercole.

Mr. Deans: Don't leave me out, please.

Mr. Shibley: All right. And Mr. Deans. And it may be of importance to this committee to know when communication was had with those people in terms of an awareness of a press investigation or inquiries by the press, and I am not really as interested in the specifics of the information as such, but that these people were made aware that a representative of the press was making inquiries about the Hydro building at those particular times.

Mr. Genest: But surely it is not necessary to establish any of those things to relate ^{the} details of a conversation ^{on a plane} ~~the details of~~ ^{with} an unknown person? That is what I object to.

Mr. Shibley: Well, ^{but} the witness -----

Mr. Chairman: I hate to cut you out from the time element because I know that that is important to us, but -----

Mr. Shibley: I want to go on then. Did you have a conversation with Mr. Gathercole following your plane trip?

Mr. Dow: The conversation I had with the gentleman on the plane prompted me to call Mr. Gathercole, yes.

Mr. Shibley: All right. And as a result of your conversations with the gentleman on the plane having called Gathercole, what was it ~~that~~ you put to Gathercole and what answers did you get from him?

Mr. Dow: To explain what I said to Gathercole, whatever credence you might want to give to this gentleman I met on the plane, he said to me, "I understand that there is some concern at Queen's Park, ~~that~~ the project either may be brought to a halt or is being brought to a halt". That is what he said to me. That made me phone Mr. Gathercole immediately I arrived back in Toronto, if not that day, certainly the next, and I said to Mr. Gathercole, "Is the project proceeding as planned?" Mr.

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(Mr. Dow)

Gathercole did not answer the question directly. He said - I am sorry I don't remember his words, * but eventually he said, "Well, we are thinking of lowering the ceiling a couple of inches because we may have to put in a sprinkler system or a different sprinkler system".

I took that to be a facetious answer and I was looking for a flat; "Yes, it is going ahead as planned," if that were the case, and I was thinking in terms of what I could quote him as saying in the paper if it came to that and I was hopeful that it would come to that.

Following some further conversation he did say, "Yes, everything is going ahead as planned".

Mr. Shibley: And that conversation with Mr. Gathercole took place when?

Tape H - 1957 follows

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CA

H-1957-1

~~Mr. Shibley: And that conversation with Mr. Gathorne-Jones~~

~~took place when?~~

Mr. Dow: It would have been right after the flight I took, which was February 21.

Mr. Genest: 1973?

Mr. Dow: 1973.

Mr. Shibley: And what was your next step in your series of inquiries? Did you make any further inquiries?

Mr. Dow: I don't remember that there were any further, Mr. Shibley, no.

Mr. Shibley: I take it, Mr. Dow, that in each instance as you contacted Mr. Deans and then Mr. Singer and then Mr. Nixon, you repeated to them in substance what had been said to you in the initial conversation between yourself and your friend in the summer of 1971?

Mr. Dow: Yes, I did.

Mr. Genest: 1972.

Mr. Shibley: Sorry, 1972.

Mr. Dow: Yes.

Mr. Shibley: Mr. Chairman, ~~although~~ although as I have said before as a matter of record I don't recognize, and I advise the committee that there is no privilege of the press to confidentiality as to source, ~~but~~ it is not my intention to ask this witness the name of the friend who provided the basic information which led him to make the communications in question. I view the evidence to be of importance only in terms of the fact that a member of the press was communicating with these various people at the times indicated and that the content, in general terms, related to the mode of the letting of the Hydro contract; the fact the Mr. Moog was a friend of the Premier, and so on, as he has related. At the moment I don't think it is important to identify the name of the friend in question, and I would suggest to the committee we accede to the request of the witness that he not be required to divulge it.

H-1957-2

(Mr. Shibley)

I can tell you that I have had very exceptional assistance and cooperation by both Mr. Dow and his counsel, Mr. Garrow, and in the circumstances, as I say, I do not see that it is necessary to pursue the matter further.

Mr. Chairman: Well, unless it is material to us I think that is the stand we have been taking on all of these matters. If it is material to us, ^{then} ~~and~~ we feel it must be made public, but you don't feel it is and I don't see that any members of the committee are particularly pressing for it.

Mr. Renwick: I think, subject to the reservation which I think was inherent in Mr. Shibley's remarks, ~~that~~ I am ~~that~~ prepared at this point to go along. I am not concerned.

Mr. Shibley: Of course, Mr. Renwick, any witness is subject to recall, and I have made it perfectly clear to Mr. Garrow and his client, Mr. Dow, that if at any time in the course of the proceedings the identity of the source becomes material.

H-1958-1 follows



H-1958-1

August 29, 1973
3:20 - 3:25 p.m.
B.G.

(Mr. Shibley)

~~at any time in the course of the proceedings,~~ the identity of the source becomes material that Mr. Dow would be recalled and the question put to him, but I don't intend a confrontation on that issue unless I consider it necessary and at the moment I'm of that view.

Mr. Wm. Newman: Mr. Chairman.

Mr. Chairman: Yes, Mr. Newman.

Mr. Wm. Newman: I would just like to ask Mr. Dow one question. This friend of yours has nothing to do with the Progressive Conservative Party or anybody high in the Party?

Mr. A. Dow: ~~He~~ Not to my knowledge.

Mr. G. Hodgson: Mr. Chairman, can I ask him a question?

Mr. Chairman: Yes, Mr. Hodgson.

Mr. G. Hodgson: Mr. Dow, the man you met on the plane and I'm not going to ask you the name of the man.

~~Messrs. Allan, Deane, and~~ ^{MR. BENWICK} He doesn't know.

Mr. A. Dow: I don't know.

Mr. G. Hodgson: But did you tell him that you were investigating the Hydro affair?

Mr. A. Dow: I may have told him ~~this~~ Mr. Hodgson that I was interested in it or that I had been making enquiries about it, in any event, I'm pretty certain that I identified myself as a reporter.

Mr. G. Hodgson: Yes. When you - can you help us, was your investigation known among other press or other people of Queen's Park that you know of?

Mr. A. Dow: I don't think so. If it was I -

Mr. G. Hodgson: You kept the investigation pretty well to yourself, other than maybe your editor or your superior?

Mr. A. Dow: I told my editor about it, yes.

Mr. G. Hodgson: Were you aware that there was any rumour around Queen's Park or the halls of Queen's Park that The Star was investigating?

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B.G.

Mr. A. Dow: No, I am not.

Mr. G. Hodgson: When you mentioned the tabling of questions of Mr. Nixon, does ~~that~~ that fix the time in your mind as to when you contacted Mr. Nixon? Was it after that?

Mr. A. Dow: Well, Mr. Hodgson, the reason I ~~feel~~ feel it was before that time was that when I spoke to him Mr. Nixon indicated to me that what I was telling him was all new to him.

Mr. G. Hodgson: You got that impression.

Mr. A. Dow: Well, I think he said "I don't know anything about it", or I probably said, "Mr. Nixon, do you know anything about this?", and he said "No."

Mr. G. Hodgson: Did you mention anything to him about a associated companies? Canada Square?

Mr. A. Dow: No, I didn't, Mr. ~~Hodgson~~ ^(Mr. G. Hodgson:) Or any matter that you know ~~of~~ of that might have been in those questions?

Mr. A. Dow: I'm not sure that I know everything about the questions that he tabled in the House, but no, I certainly didn't ask him about associated companies.

Mr. G. Hodgson: Did you - you are sure that you talked to Mr. Singer prior to talking to Mr. Nixon?

Mr. A. Dow: Yes, I am.

Mr. G. Hodgson: Thank you, Mr. Chairman.

Mr. Renwick: Mr. Chairman, there is one question that I wanted to ~~ask~~ ask because it came through a little bit ambiguously to me. I take your response to the question related to Mr. ~~De~~ Petlock and the UDI, that when you said Mr. Moog was very much his own man -

Mr. A. Dow: Petlock told me that yes.

Mr. Renwick: - in other words, he wasn't part of the fraternity that were associated in UDI, but ~~as~~ it was not any disparagement of him as a developer.

Mr. A. Dow: No, ~~not~~ not at all.

Mr. Renwick: I just wanted to clear that up because there just was/a slight ambiguity in ^{the} your response.

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B.G.

H-1958-3

Mr. A. Dow: No, I think Mr. Petlock having been retained by the UDI knew a lot of the developers either through, I don't know, whatever kind of meetings or maybe perhaps social events, and I think I probably brought it up because I thought - well, maybe, he knows Because Moog. /I think he does know a number of people who are in the development *industry*.

Mr. Henderson: Mr. Chairman.

Mr. Chairman: Mr. Henderson.

Mr. Henderson: Could I ask the witness, was Mr. Nixon knowledgeable that Mr. Singer was counsel for Canada Square when you approached Mr. Nixon?

Mr. A. Dow: I don't remember telling Mr. Nixon that I had previously discussed the matter with Mr. Singer.

Mr. Henderson: Fine.

Mr. A. Dow: I may have done, but I don't remember.

Mr. Henderson: You don't, you are not sure. Thank you.

Mr. Chairman: Mr. Dow, did I understand you correctly when you said you had asked Mr. Nixon not to bring the matter up in the House or what exactly did you say there?

Mr. A. Dow: Well, Mr. MacBeth, I said to Mr. Nixon and I think the words I used were, "Please don't do anything about..."

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(Tape H-1958-follows)



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M.S.

(Mr. Dow)

~~...I said to Mr. Nixon, and I think the words I used were,~~
"Please, don't do anything about it right away". But I meant that in the sense ^{to} give me a chance to put this story together and publish it before you make any public pronouncements about it. I was quite happy for him to make any inquiries that he wished to make, as long as they were discreet and as long as it didn't bring the thing out into the open because my selfish motive was to get the story and get it first.

Mr. Chairman: Do you recall his reply to that?

Mr. Dow: He acquiesced.

Mr. Chairman: All right. Any other questions?

Mr. Newman?

Mr. Wm. Newman: Mr. Chairman, ~~the~~ only one thing ~~concerns~~ concerns me, and perhaps I should ask Mr. Shibley this question about Mr. Dow's friend. I don't really want to know the ~~his~~ name, except that if it happens to be one of the bidders on that contract or something to do with ~~him~~ ^{then} I think we should know.

Mr. Wm. Hodgson: One of them was! ~~the~~

Mr. Shibley: Well, ^{since} ~~as~~ you put me in that position I'm going to go down a line of questioning ^{with} ~~Mr.~~ Dow, that would put your mind somewhat at ease in that respect. I can tell the committee that my information is that it was not one of the four developers that made a submission, nor anyone connected with the submissions.

Mr. Chairman: Any other questions?

Mr. Wm. Hodgson: I thought that the witness said that - not where he got the first information, but when they had the dinner he didn't get any information, but one of the developers was at that dinner.

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M.S.

Mr. Shibley: Well, what he meant -- no, he didn't say one of the developers who made the submission, Mr. Hodgson.

Mr. Wm. Hodgson: Or one of the group. One of the high officers.

Mr. Shibley: What he said, I think, is that the people in question are connected with a company or an undertaking that would be interested in a development of this type. His friend is with that association and the man who joined them for Christmas dinner is a high official of the same group. But that neither of those two people are associated in any way with any of the four developers who made proposals on the Hydro job. Is that not correct?

Mr. Dow: ^{That's} my understanding.

Mr. Shibley: On the other hand, they were a group that had, at one time, ambitions to participate in the development. Isn't that so?

Mr. Dow: Yes.

Mr. Shibley: And that their ambitions in that respect extended ~~what~~ over what period of time?

Mr. Dow: A year is the time that he mentioned to me. Whether he said the best part of a year or more than a year, ^{or whether} ~~he~~ he mentioned ~~it~~.

Mr. Shibley: And had they pursued the matter of participation?

Mr. Dow: They had discussed the matter with Hydro.

Mr. Chairman: ~~Well,~~ ^{Well,} I think we're getting into dangerous ground, again, in taking from this witness certain evidence of what somebody else may or may not have done without being prepared to call that person to substantiate ~~it~~.

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M.S.

Mr. Finlayson: Mr. Chairman, it's worse than that, because it now appears that these two people were obviously repeating something they had heard from somebody else. They weren't disgruntled ^{bidders} ~~disgruntled~~ themselves. ^{it to a reporter.} They must have been told by somebody and were repeating ~~it to a reporter.~~

Mr. Shibley: Well then, Mr. Chairman, I must then ask the witness was this company or this group involved at one point of time directly in efforts to participate in the head office development of Hydro? I'm not saying now in my question that they were the ones that made an ultimate submission, one of the four. ~~■~~ They were such a party. Mr. Dow: Yes. Mr. Shibley: And did they have a meeting or meetings with representatives of Hydro in that connection?

Mr. Dow: Yes.

Mr. Shibley: And are they an entity that ~~was~~

Mr. Dow: I don't have firsthand knowledge of that.

Mr. Shibley: I realize. So that, to that extent they're not somebody off the street, or with descriptions that Mr. Finlayson would like to attribute to the person you spoke to on the plane? Mr. Dow: That's right.

Chairman:

Mr. Dow: Any other questions of Mr. Dow?

Mr. Gaunt?

Mr. Gaunt: Just one, Mr. Chairman. I would like to ask Mr. Dow if he did anything further after he talked with Mr. Gathercole a second time, subsequent to the plane trip, ~~that~~

Mr. Dow: That was my first and only conversation on this matter with Mr. Gathercole.

Mr. Gaunt: I see. And did you do anything about the story after you talked to Mr. Gathercole and prior to April 30, the date on which the story appeared in the Globe?

1960 next

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DT

(Mr. Gaunt)

~~and prior to April 30th, the date on which the story appeared in the~~
~~Globe?~~

Mr. Dow: As far as I can remember, Mr. Gaunt, the next thing I knew was that Mr. Nixon had raised it in his Throne speech, his response to the Throne speech late in March and then I assumed -- well, I guess I just said to myself, well it is out in the open now and --

Mr. Gaunt: The ~~ball game~~ ball game is over.

Mr. Dow: As far as I am concerned, yes.

Mr. Chairman: Any other questions? Mr. Genest.

Mr. Genest: Mr. Chairman, may I put a question through you or through Mr. Shibley? May the witness be asked if my understanding is correct that his conversation with Mr. Gathercole was an enquiry as to whether the project would be brought to a halt?

Mr. Chairman: Mr. Dow, did you hear that question?

Mr. Dow: Yes.

Mr. Chairman: And do you understand it?

Mr. Dow: I am not sure whether I put it that

pointedly to Mr. Gathercole. I may have done but certainly I asked him whether it was going ahead ~~apace~~ ~~apace~~ and as planned.

Mr. Genest: Another question, Mr. Chairman, was Mr. Gathercole told by the witness that there were questions raised about the manner of letting the contract?

Mr. ~~Chairman~~ Chairman: That question, Mr. Dow, please.

Mr. Dow: I don't remember, Mr. ~~MacBeth~~ MacBeth. I ~~don't~~ don't think I carried the conversation that far.

Mr. ~~Chairman~~ GENEST: Then the third question is one to Mr. Shibley; why did we bring that out at all then?

Mr. Shibley: I think there were two communications made with Mr. Gathercole ~~which~~ ^{that} have been referenced by the witness, one as a result of his discussions with Mr. Nixon, following which Mr. Hodges talked to Mr. Gathercole in November of 1972 and in that connection I might say Mr. Hodges says that because he started his employment, I believe, on November 17, it would have been at some date in the latter part of November or from November 17th

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(Mr. Shibley)

forward and there was the direct communication between this witness and Mr. Gathercole in ~~the~~ February. Again, both conversations would have alerted Mr. Gathercole to the circumstance of press enquiries referable to the head office building.

Mr. Genest: There had been very pointed enquiries by Mr. Nixon in December.

Mr. Shibley: Yes, but Mr. Gathercole has given other evidence, Mr. Genest, that's to be compared with the circumstance in question and I am not going to comment further on it but I think the fact that there was communication made with Mr. Gathercole at those particular times and bearing in mind that -- well, I don't want to comment further.

Mr. Chairman: Any other questions of Mr. Dow?
Thank you --

Mr. Renwick: Just to clear that point up to make certain that I understand what Mr. Genest said, my understanding was that Mr. Dow got in touch with Mr. Nixon because Mr. Nixon had been involved in or questioning, raising questions about the Fidinam matter and that that conversation with Mr. Nixon took place in the latter ~~part~~ part of October or early in November before any questions were tabled by Mr. Nixon in the Legislature which was on the first of December.

Mr. Shibley: You will remember also Mr. Nixon said he was looking for a story in one of the newspapers during that month. When one didn't show up, he tabled his questions, I think. That's part of his evidence also which is consistent with what Mr. Dow has said.

Mr. Chairman: Thank you very much, Mr. Dow, for your assistance. I hope we won't ^{need} ~~have~~ to call you back again but all of our witnesses are subject to recall.

Mr. R. G. Hodgson: Perhaps Mr. Dow could better identify the date in regard to either Mr. Singer or Mr. Nixon or whether he did talk to anyone in government other than Hydro because I think there are several persons' testimony would hinge a bit about it, if he could clearly identify in any way -- in a better way his

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(Mr. R. G. Hodgson)

recollection as to dates in late October or early November.

Mr. Chairman: Do you mean on this occasion or some subsequent occasion?

Mr. R. G. Hodgson: If there is any way that he could identify them in a better way in the future, we would appreciate hearing them, I think.

Mr. Chairman: Is there any way you think you can do that now, Mr. Dow?

Mr. Dow: No, there isn't, Mr. MacBeth.

Mr. Chairman: Well, if you find any way, you might get in touch with Mr. Shibley or myself to communicate that.

Mr. W. Newman: Well, Mr. Chairman --

Mr. Chairman: ~~Go~~ Go ahead, Mr. Newman.

Mr. W. Newman: Mr. ~~Dow~~ Dow, when you were talking to Mr. Nixon, Mr. Singer and Mr. Deans, quite obviously you probably took a few notes for your own future reference. Would there be any dates on those?

Mr. Dow: ~~No~~

(H-1961 to follow)

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3.35 - 3.40 p.m.
M.R.

(Mr. W. Newman)

~~...probably took a few notes for your own future reference.
Would there be any dates on these?~~

Mr. Dow: No, I can't - certainly I didn't take any notes. At least, none that I kept with Mr. Singer, because I was at home in my kitchen and I don't remember scribbling anything down there. I did keep notes, and in fact when I started out on this I took a separate notebook and I wrote "Hydro" on it as I occasionally do if I'm starting on a story where - or any type of a story that ~~amounts~~ amounts to anything.

However, for one reason or another, I destroyed them. I cleaned out my desk in other words after the whole thing and I just - after it came out in the open, I thought well that's the end of that story for me and never having occurred to me that I would ever be asked to ...

Mr. Chairman: Thank you, Mr. Dow.

Mr. Dow: Thank you.

Mr. Chairman: Gentlemen of the committee, Mr. McCallum is to be our next witness I understand, and he has been following the proceedings fairly closely. I understand it is the intent of Mr. Shibley to ask him questions concerning the contract and he would like a little time to refresh himself in regard to this.

Mr. Gaunt: Mr. McCallum?

Mr. Chairman: Mr. McCallum, yes. Not Mr. Shibley, but Mr. McCallum. Mr. Shibley has suggested that we should proceed with him tomorrow afternoon and Mr. Shibley suggested that perhaps we should see one of the buildings this afternoon. I told Mr. Moog earlier that I didn't expect that we would be seeing anything this afternoon, but suggest that we can probably see everything we need to see tomorrow morning.

Now, I'm open for comments on that suggestion. In other words, that we hear Mr. McCallum tomorrow, hopefully, Mr. Allan, getting to your concern over the contract.

Mr. Allan: Thank you very much.

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M.R.

Mr. Chairman: And also we'll call it Allan day because you are the one who wanted to visit some of these buildings.

Mr. Allan: You are too kindly.

Mr. Chairman: So that I thought we would meet at 2.00 o'clock tomorrow afternoon and try to see some of the buildings in the morning. Now, it all depends how many we want to see and I suppose we could go and see some buildings, now, close at hand. You mentioned the Travelers, but whether we should rather all descend on it or ask our clerk to make some arrangements. It's short notice, but maybe at least a caretaker or somebody could meet us.

Mr. Henderson: Mr. Chairman, I would suggest that you arrange a bus at 10.00 o'clock tomorrow morning

Mr. Chairman: Well, that was my ~~thought~~ thought, *that we should*

go together.

Mr. Henderson: ...and we will go in a body and know where we are.

Mr. Chairman: Somebody said earlier that a bus was not necessary but it seems to me that if we try to want to keep together and get it all done at one time that a bus would be the best way to do it, and that we start off and take anybody - the committee members plus anybody else that the bus will hold.

Mr. Renwick: Mr. Chairman ...

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Before we go on, I can understand going to see Mr. Moog's building tomorrow because he would be available to outline to us and comment upon the features of his building. Unless we have somebody knowledgeable with us there's not much point in me going to see other buildings. I can see all the buildings I want every day.

Mr. Finlayson: He says he will explain them all to you.

Mr. Renwick: Well, I respect greatly - Mr. Moog and I'm sure Mr. Candy would be glad to come along and explain them to us, but I think I had something else in mind.

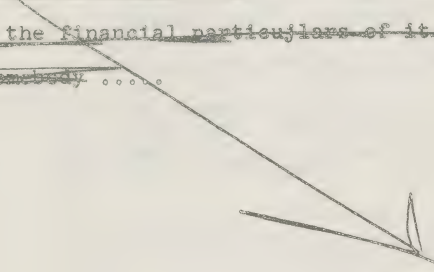
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M.R.

(Mr. Renwick)

Mr. Chairman, may I express my concern directly to the committee? I think we have a real obligation to get going with expedition and I think we are now marking time,

Mr. Chairman: Well, we are marking time, but it developed because of what happened this morning.

Mr. Renwick: No, but the idea of seeing buildings seems to me to be filling in. We can go and see buildings at some later time. I'd like to see - I'd certainly like to see Mr. Moog's building and I'd like to have his comments on it. I think it might very well, on the question of the quality of the building, be a matter of wisdom to wait until we have the discussion with ~~Anna Centuright~~ about the qualitative or about the financial particulars of it, or at least that we have ~~anybody~~



H-1962 to follow

H-1962-1

(Mr. Renwick)

discussion with Anson-Cartwright about the ~~quest~~ financial particulars of it, or at least that we have somebody, ~~an~~ an informed person to discuss these matter with us. For the rest of today and tomorrow morning I want to be usefully involved if I am going to be involved with the committee. And the second thing is that if ~~the~~ the proposal is that we now adjourn I would suggest that we follow along Mr. Newman's suggestion and have an executive session and clear up some of the outstanding matters that are in my mind, and in other members' minds.

Mr. Chairman: That suits me. I am just wondering though if the list of witnesses that you have, Mr. Shibley, whether you...

Mr. Shibley: My difficulty, Mr. Chairman is so many of them are on holiday. Mr. Rasmussen of Hanscomb Roy is not available this week. He would have been an excellent witness to put in immediately. Mr. Zwig, Horizon's lawyer is at the Bar convention. He is represented by Mr. Robins who is the treasurer of the Law Society and who specifically asked that we wait until he was available to attend with Mr. Zwig. I could call, I suppose, some of the other Hydro people. I had hoped that we might keep the financial people together so ~~to~~ to speak. It is not just as easy logistically as all that and we are about to enter into a period which involves relatively short and more than one witness per day. And the logistics become more difficult in those circumstances. I am hoping to process three, four or five people in a given day because some of these people can only testify as to ~~a~~ very limited areas. And I don't mind telling you also that I think that the long weekend, plus Friday, is a blessing for me on that score. I'll continue the efforts I started last week of completing some interviews, and preparing for these people.

Now Mr. McCallum can very usefully spend tomorrow afternoon outlining the terms of the contract to us. I have discussed that with him. I have told him that I ~~was~~ ^{was} impressed with Mr. Allan's concern that we get down to somebody telling us about the contract, and he is the obvious person for it. And it seemed timely that we should do so.

H-1962-3

~~Mr. Chairman~~ yes

Mr. Chairman: Can ~~you~~/not start tomorrow morning? Is there any reason?

Mr. Shibley: Well I had pressed him to do that, to start tomorrow morning. His concern is that because he has been in attendance on an almost continuing basis that he hasn't had time to prepare, and he is really being caught on short notice to come. Now I have said to him that really what the committee wants in the first instance is an understanding of the contract. And it is going to take him he tells me, you know, at least two or three hours just to outline to you paragraph by paragraph the import of ~~and~~ what led to the inclusion of certain terms. And as I said, "I am just going to ask you to explain the contract. You can do it by reference to your reporting letter and the documentation and let you run with it for the half day." And it was he who asked me that instead of starting tomorrow morning we might start with him in the afternoon. And it was that that gave me the idea well if we have a morning we might usefully spend it looking at buildings. That all happened over lunch with him.

Mr. Renwick: Mr. Chairman, let me state my preference for what it is worth, that we go into executive committee session this afternoon, and complete the matters that are of concern to some of the members of the committee and I know are of concern to the chairman. Let us not meet tomorrow morning, and let us meet at 2 o'clock tomorrow afternoon and defer the visits both to the Transamerica Building and to any other buildings until we have more or less reached that stage, rather than to suddenly interject us into a sightseeing tour.

Mr. Chairman: Well all right, except, now you said you thought you might arrange somebody to give some expert advice on various buildings. I don't know whether we all need to go on any tour that we may have.

Mr. Henderson: Mr. Chairman, ~~that is~~ my reason for suggesting the bus, is that we would all go at once together. ~~Yes~~

H-1963-1 follows

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M.F.

H - 1963 - 1

~~Mr. Henderson: Mr. Chairman, that was my reason~~
~~for suggesting the buses that we would all go at once together.~~
I am not particular when we go.

Mr. Chairman: No, but what I am saying is some of us may feel that there is no great merit in visiting some of these places.

Mr. Henderson: Right. My only suggestion is that we would all be in a group.

Mr. Walker: Is there some person you could put on tomorrow morning?

Mr. Shibley: Mr. Genest, what about Mr. Gordon of Hydro for tomorrow morning?

Mr. Genest: I can't tell you anything about Mr. Gordon. I think he is away.

Mr. Renwick: Mr. Chairman, really, as I say, this marking time and filling in this area concerns me. I would rather cut the Gordian knot and not meet tomorrow. I don't think it is fair to Mr. Gordon to ask him on short notice to come. I don't think it probably is fair to counsel to be proceeding with questioning on this matter.

Mr. Chairman: I am really a little bit at a loss to understand really why Mr. McCallum, though, couldn't come. ~~Have~~
~~you~~ any comments on that, Mr. Genest?

Mr. Genest: Yes, Mr. Chairman, Mr. McCallum has had really no chance. Mr. McCallum a year ago, over a year ago, conducted negotiations in this contract. There are a lot of matters to be covered; there are a lot of clauses that need to be gone into. He didn't expect to be called until well on in the next week. I haven't finished myself reading his file. He has asked, and I think it is a reasonable request, for time to prepare himself so that he can give authoritative evidence to this committee and not come in here half-prepared.

H - 1963 - 2

Mr. Renwick: Mr. Chairman, I consider Mr. McCallum a major witness from the point of view of the committee and if he has requested time to be adequately prepared I think we have got to accede to that.

Mr. Chairman: I didn't figure he would be over ~~the~~ — I don't know how long Mr. Shibley intends to take with him; I suppose it will be a day anyway, will it?

Mr. Shibley? Oh I would hope not.

Mr. W. Hodgson: Mr. Chairman, as a suggestion why not meet at 1.30 instead of two and give us a better chance to ~~meet~~

Mr. Deans: Start at one!

Mr. W. Hodgson: Start at one, One is a good idea.

Mr. Chairman: Mr. Allan? It is not going to be Mr. Allan's day then by the sound of the committee, other than looking at the contract in the afternoon.

Mr. W. Newman: Mr. Chairman, I have heard so much about patents and gadgets and things and I am really not very familiar with them and I would like to have the opportunity to see one of Mr. Moog's buildings, but in the context of your questioning in the future will we be going into the details of building further yet?

Mr. Shibley: It is not my intention to, no. I think one look is worth 1,000 words.

Mr. Walker: Mr. Chairman, in view of the fact that we can't really do very much before one o'clock tomorrow afternoon, maybe tomorrow morning would be appropriate and we should reverse our thoughts and go for a quickie.

Mr. Chairman: If we are going to do it anytime I am in favour of doing it now if we have got a spare morning ^{rather} than trying to work it in at some later date.

Mr. Allan: Mr. Chairman, if we were going to say the Allstate Insurance building -----

Mr. Chairman: Oh I don't know ^{which ones} ~~of them~~

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M.F.

H - 1963 - 3

Mr. Shibley: That takes us out of the way. We could see the Transamerica building, we could see OISE and we could see Travellers very easily; they are all in a line so to speak.

Mr. Deans: They are all on the subway?

Mr. Shibley: All on the subway line, yes.

Mr. Renwick: What do we have to see the OISE building for?

Mr. Chairman: Well, Mr. Allan expressed some interest in seeing it some time ago.

Mr. Allan: I want to know whether some of the things these people have been saying are really true.

Mr. Deans: That's what we are all trying to find out, Mr. Allan.

Mr. Chairman: We could have two and a half hours tomorrow morning. I think we had better make use of the morning. I am still working for the 14th.

Mr. Renwick: Mr. Chairman, unless there is an expert with us there is no point in ^{me} going on a tour of a building.

Mr. Allan: Well, I think we could do the Transamerica building.

Mr. Shibley: Yes, that is a building we could see and get it done with. What we might do is ~~expert~~

Mr. Walker: Maybe we can get an ~~expert~~ ^{expert} for Mr. Renwick to go ~~around~~ ^{around} the other buildings.

Mr. Allan: Even if we went and saw that tomorrow morning, -----

Mr. Shibley: How about going at 11 in the morning, and meeting at the Transamerica and coming on down to go on with the morning.

Mr. Chairman: And who is the expert who will show us through that?

Mr. Shibley: Well, Transamerica is Moog, ~~Moog~~

Mr. Allan: There are lots of experts in the press.

Mr. Genest: I don't think there is anything contro-

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3.45-3.50 p.m.
M.F.

H - 1963 - 4

(Mr. Genest)

versial, if I can assist. Mr. Candy would be ~~~~~ I don't think there is anything controversial, I wouldn't ordinarily offer a party or someone who is being inquired into, but this is just for an understanding of the features.

Mr. Chairman: That was my thought ~~~~~

Mr. Genest: Mr. Candy would be very glad to go along with ~~Mr.~~ Mr. Moog and assist.

Mr. Chairman: ~~and I would be quite happy with Mr. Candy~~ *and I'd be quite happy with Mr. Candy* *showing us*

Mr. Deans: We should have Mr. Tatham show us Mr.

Moog's buildings and ~~~~~~~~~

Tape H - 1964 follows

H-1964-1

August 29, 1973
3:50 - 3:55 p.m.
B.G.

~~(Mr. Gagest.)~~

~~...but this is not, this is just for an understanding of reality.~~

Mr. Chairman: Well, that's my thought, -

Mr. Gagest: And Mr. Candy would be ~~very happy to~~

with it.

Mr. Chairman: and I would be very happy with Mr. ~~Gagest~~

showing us -

Mr. Deans: We should have Mr. Tatum show us Mr. Moog's buildings, and Mr. Moog show us Mr. Tatum's buildings.

Mr. Allan: You are looking for a row.

Mr. Shibley: That's ^s a dandy.

Mr. Deans: Well, then we will see ~~everything~~ everything.

Mr. ~~Gagest~~ Chairman: All I am saying to you gentlemen

~~is it is we are still working for the~~

~~Mr. Chairman: if we are still working for the~~

fourteenth of September, I don't want to be ^a somebody is suggesting that we meet Saturday morning or Friday later on, or after we've heard evidence, that we can see these buildings, I think at that point we will be tied down with giving a report.

Mr. Renwick: That's right.

Mr. Chairman: Now, some of the members have suggested that it would be nice to see these buildings. I ~~agree~~ agree; I don't think there is going to be a great deal coming from it. I don't regard it as controversial, and maybe Mr. Candy could make himself available and let's hear Mr. Candy's points of view.

Mr. Renwick: With great respect to Mr. Candy, Mr. Candy is a very persuasive salesman, and Mr. Moog is a very persuasive salesman, ~~for~~ and for me to be escorted through their buildings and then to be escorted through somebody else's buildings by them, is not going to be particularly helpful to me.

Mr. G. Hodgson: Mr. Chairman, is it not possible -

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3:50 - 3:55 p.m.
B.G.

H-1964-2

~~Mr. R.G. Hodgson:~~ Mr. R.G. Hodgson:— to get someone from Government Services, some government person who would be able to show these features and ~~expat~~ explain them to us?

~~Mr. Deans:~~ Mr. Deans: Jim Snow!

~~Mr. Walker:~~ Mr. Walker: All we need is one expert, ^a Mr. Renwick.

~~Mr. Chairman:~~ Mr. Chairman: Well, we can try.

~~Mr. Allan:~~ Mr. Allan: Mr. Chairman, you know I always like to agree with Mr. Renwick.

~~Mr. Renwick:~~ Mr. Renwick: Thank you.

~~Mr. Allan:~~ Mr. Allan: Nearly always.

~~Mr. Renwick:~~ Mr. Renwick: I can feel it coming.

~~Mr. Walker:~~ Mr. Walker: XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX.

~~Mr. Allan:~~ Mr. Allan: This - What ^{kind of} ~~substance~~ Roy is it?

~~Mr. R.G. Hodgson:~~ Mr. R.G. Hodgson: Hanscomb Roy.

~~Mr. Allan:~~ Mr. Allan: ~~Hanscomb~~ Hanscomb Roy. You know, if someone like that could go with you ^{who is} ~~as~~ an entirely independent person.

~~Mr. Shibley:~~ Mr. Shibley: Unfortunately again, Mr. Rasmussen is away.

~~Mr. Allan:~~ Mr. Allan: Yes.

~~Mr. Shibley:~~ Mr. Shibley: And he would be ideal, I agree with you.

~~Mr. Renwick:~~ Mr. Renwick: If he is ideal, let's wait for him.

~~Mr. Walker:~~ Mr. Walker: Oh, I think we are well covered with Mr. Candy.

~~Mr. Gaunt:~~ Mr. Gaunt: I think so too.

~~Mr. Shibley:~~ Mr. Shibley: All right.

~~Mr. Chairman:~~ Mr. Chairman: I think we should go tomorrow morning. You say let's wait for him?

~~Mr. Walker:~~ Mr. Walker: ^{You've} ~~been~~ been around a long time.

~~Mr. Chairman:~~ Mr. Chairman: I am interested in keeping this thing moving.

Mr. Gaunt.

~~Mr. Gaunt:~~ Mr. Gaunt: Mr. Chairman, I just want to make my intention clear. I have to go home to-night and I would be very hard pressed to be back here at 10 o'clock to-morrow morning.

~~Mr. Walker:~~ Mr. Walker: Is 10:15 okay?

H-1964-3

August 29, 1973
3:50 - 3:55 p.m.
B.G.

Mr. Shibley: So does Jim.

Mr. Chairman: Well -

Mr. Gaunt: I'll try and join you at 1 o'clock. The other point I raise is that presumably you are going to see the Transamerica Building, is that the decision?

Mr. Chairman: Well, I think that's the consensus, that we should visit one or two buildings to-morrow, that's still my thought, ~~unless~~ unless, ~~and if~~ you want to vote on it.

Mr. Gaunt: ~~We can't vote~~

~~XXXXXXXXXX~~ All right, so that's your thought and presumably you may even visit the OISE Building tomorrow?

Mr. Chairman: I am going to ask our clerk to see what he can do on this short notice to line up one or two, ~~tomorrow~~

~~tomorrow~~ Mr. Shibley: Let's do these two tomorrow. That's good enough.

Mr. Gaunt: I presume that you will then be taking the bus, as Mr. Henderson suggested.

Mr. Chairman: If he can get a bus I would think that would be the best way to go so that we can all go together.

Mr. Deans: That's very expensive. Mr. Newman doesn't want, to spend -

Mr. Chairman: Well -

Mr. Allen: Well, depending on the number of buildings. If we are only going to ~~one or two~~ a couple of buildings -

Mr. Shibley: If there are only one or two we can all make our own way.

Well,
Mr. Chairman: Yes, all right, then -

Mr. Walker: ~~OISE~~ we can walk up to.

Mr. Chairman: Except if anybody else wants to come, in the nature of the press, I would expect that they would be entitled to come.

Mr. Gaunt: The press will be -

Mr. Chairman: Well, they're invited; but I don't think any cookies and cake will be served or anything of that nature, and we certainly won't be taking any evidence. It will be just a case of visiting these buildings, that's all.

H-1964-4

August 29, 1973
3:50 - 3:55 p.m.
B.G.

~~Mr. Chairman:~~

Mr. Allan: There are lots of experts in the press.

Mr. Wm. Newman: Mr. Chairman, ~~in~~ in order that we may get a time frame, sort of, I would assume we will meet somewhere, say at 10:00 or 10:15 a.m., we will be meeting again probably at 1 o'clock to hear Mr. McCallum, and we are going to executive session this afternoon, is that the way I understand it?

Mr. Genest: One o'clock? Or one-thirty, *whatever it is.*

~~Mr. W. Newman:~~

Mr. Chairman: Well, now, if we go on this tour I would rather make it 1:30 p.m.

Mr. Genest: All right, one-thirty.

Mr. Walker: We will pack a lunch.

Wm. Newman:

Mr. ~~Walker~~: Where are we meeting and at ~~what~~ what time?

Mr. Chairman: All right, we will meet here to-morrow morning at 10:15.

Mr. R.G. Hodson: In this room?

Mr. Chairman: Well, I would say in this back parking lot out here.

Mr. Deans: It is supposed to rain to-morrow.

Mr. Renwick: Bring your lunch ~~then~~ *bag*.

Mr. Chairman: And I don't think it matters whether we are all here or whether we are not here. ~~Is there~~ *So* anybody who is interested...

Mr. L. Henderson: What time, Mr. Chairman?

Mr. Chairman: Ten-fifteen.

Mr. Henderson: You will ~~have~~ have a bus out here, according to arrangements.

Mr. Chairman: We are going to get a bus and arrange ~~that~~ *that*

~~the~~

Mr. Henderson: *Let's* ~~That is~~ *it* limited *than* to two buildings, Mr.

Chairman?

Mr. Renwick: Let's go to the Exhibition.

Mr. Chairman: Apart from that ~~...well~~ *well*, we may just do that. We may decide we want to see some of those Exhibition buildings.

Mr. Henderson:

Well, can we limit it to two

buildings, Mr. Chairman?

Mr. Chairman:

Well, I hear "yes".

Mr. Henderson:

I think we are moving into ground that really doesn't come under our jurisdiction, but I am quite willing to go, *along*.

Mr. Chairman:

Well, you may be right. Again, I am listening to various people. Mr. Allan from the very start has said he would like to see some of these buildings and I think there is some reason to take a look at them.

(TApe H-1965 follows)

(Mr. ~~Chairman~~)

~~Mr. Allen from the very start has said he would like to see some of these buildings and I think~~

~~Henderson:~~ We ought to

~~Mr. Allen:~~ take a look at them.

Mr. Renwick: I think Mr. Moog and Mr. Candy should know that any of their comments will be considered to be given under oath tomorrow.

W. Hodgson: Mr. Chairman, I would suggest go and see Canada Square building. I would like to see the Canada Square Building. I would like to see the building that was mentioned here by Mr. Tatham, The IBM building I think

Mr. Chairman: Well, the IBM is a little further away but that was my thought.

~~Mr. Walker:~~ Well, let's do what we can.

Mr. Walker: We will leave it in your capable hands.

Mr. Chairman: We will leave it with Mr. Moore here in a minute.

MR. Allan: Mr. Moore and Mr. Candy.

Mr. Chairman: We are adjourned then until 1:30 pm tomorrow afternoon.

R. Mr. G. Hodgson: Are we going into executive session?

Mr. Chairman: Yes.

The committee adjourned at 3:55 o'clock, p.m.

~~XXXXXXXXXXXX~~

PEARANCES

Committee members:

J.N. Allan

J.E. Bullbrook

I. Deans

M. Gaunt

L.C. Henderson

R.G. Hodgson

W. Hodgson

J.P. MacBeth (Chairman)

W. Newman

J.A. Renwick

G.W. Walker

er of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

istant to committee counsel:

J.P. Bell

ario Hydro counsel:

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